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LIFE AND EVENTS.

BY

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DEDICATED
TO THE
SACRED CAUSES OF TRUTH, JUSTICE,
AND THE
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EXPLANATION.

IT is due the families and individuals whose names are used or referred to in this work, to state that it was conceived, and has been written by its Author without their knowledge or consent; and that the Author, and the Author only, is solely and wholly responsible for it.

C O N T E N T S.

The Colonization of North America :

The Revolution and Independence of the Colonies :

The Constitution of the United States :

The first Great Struggle under the Constitution as to the powers and policy of the Government :

The settlement of the Valley of the Mississippi, and the acquisition of Louisiana :

The Great Contest with South Carolina, and the doctrines of Nullification by the States :

The late War with England :

The Colonization and acquisition of Texas and the Californias :

The consequences of the Colonization of Texas to individuals and to the government :

The policy of the Government in regard to further acquisition of Cuba, Mexico, and Central America :

The history and Constitutional rights of African slavery
in the Union:

The relations of the general government to the Territories
and States, as developed by the Kansas contest:

The Conclusion.

P R E F A C E.

IN observing the historical map of the world, we see a few great facts as prominent above the rest, as the bold mountains of the globe. Among these are the discovery and colonization of America; the Independence and Union of the States; the subsequent addition of new States, and the vast extension of the blessings of freedom.

To us, the most important portion of the history of our race is the history of our own country. That history is strikingly composed of individual and united struggles and achievements. Although able and extensive American histories and biographies have been written, some of their great and important truths have been given in the abstract only; others erroneously given, whereby some persons have received more and others less than their share of honor.

It is the object of this humble effort to place those great truths in their true connection; to record others that have been omitted; to show how great events have been produced by individual efforts; to render a just tribute to the memories and services of some of our Fathers; to show the injustice that has been done, and to indicate further attempts that have been made and committed upon some of their children;

to show how National growth, and wealth, and glory have cost, in some instances, individual life and family prosperity ; yet to discover the direction which the great and glorious hand of the past points out as the only true course of that grand destiny for which our country seems to have been designed, and which she will certainly attain, if she prove faithful to herself and the sacred causes committed to her hands.

LIFE AND EVENTS.

CHAPTER I.

"History is Philosophy teaching by example."

WHEN this continent was a wilderness, Sir Walter Raleigh, under the auspices of Queen Elizabeth, sent two ships to America for purposes of discovery. On their arrival, they were cordially welcomed by the natives, and were treated throughout their stay with the most affectionate hospitality. When they returned to England, the accounts they gave of the country produced great sensations among the classes, and the Queen named it Virginia in honor of herself. The next year, Sir Richard Grenville, Sir Walter's associate, sailed from Plymouth with seven ships, well provided with arms and stores, and a company of volunteers to form a colony in Virginia. The principal motive of this adventure was the discovery of gold and the precious metals. Shortly after their arrival on the coast, for a trivial offence, Sir Richard burnt the town and cornfields of a native tribe. After locating his colony at Roanoak, he returned to England. His colony thus embroiled in war with the na-

tives, became so disheartened that they soon left the country forever. Soon after this, Sir Richard arrived with three ships and plenty of provisions. Being unwilling to lose possession of the country, he left another colony on the Island of Roanoak, and built houses for their protection. But the destiny of his colony seems to have been fixed. They were all destroyed by the natives—not one was left to tell the sad story of their fate.

A kind Providence had endowed Elizabeth of England with faculties given to but few of her sex, and permitted her to wear the crown of the great kingdom of the earth, but she so lived and died as to be called the Virgin Queen; so it seems ordered that this prolific nation of ours should not receive its birth from her hands.

The next colony was sent over by a London company, under the patronage of James I. They sailed under sealed instructions, to be opened after their arrival in Virginia. They landed 13th of May, 1607, and located their colony at Jamestown, on James River—so named by themselves in honor of their patron King. The sealed packages were opened, the names of his majesty's council proclaimed, and a President appointed by the council. During their voyage, the superior qualities of the renowned Capt. John Smith, brought upon him the hatred of the council. They imprisoned him under the charge of an intention to murder the council, and make

himself king of Virginia. After their arrival, they urged him to return under this charge, to England; but refusing to go, he demanded his trial, and was triumphantly acquitted. In a short time the odious conduct of the President aroused the indignation of the colony. Besides his previous indifference to their sufferings, when they were reduced by famine and sickness, and were threatened with destruction by the natives, they detected him in attempting to escape with the only vessel left for their safety. He was deposed and his successor appointed by the council. The inefficiency of the second soon became known, when the colony rose in the majesty of their rights, declared Capt. John Smith their President, and clothed him with full authority. Possessed of every noble qualification for the position assigned to him, Capt. Smith soon proved himself worthy to be the first American—the first democratic President, elected by the people, on the continent of America. After his election, while exploring the neighboring country, President Smith was taken prisoner by a large body of Indians. They marched him in triumph to the palace of Powhatan, the great King of the country. He was condemned to suffer death! His head was placed upon the block! the death blow was raised above him, when the young and beautiful Pocahontas sprang to his side, folded her arms about his neck, and placed her head upon his to receive the fatal blow! The arm of

the executioner was paralyzed. The blow fell harmless to the ground. She was the Princess daughter of King Powhatan. President Smith, thus saved, was pardoned by the King. He returned to his colony, just in time to save it. He found them reduced to thirty-eight persons, and in the act of leaving the country forever. A few years afterward, Pocahontas was united, by affection and by marriage, with Mr. Rolf, an English citizen of the colony. Their marriage was blessed with happiness and with children.

From these important circumstances, we may learn lessons of wisdom applicable to all times and countries. Whenever a great undertaking is actuated by bad or impure motives, it is almost sure to fail. Whenever generous and affectionate hospitality is outraged by the ruthless hand of ingratitude, the perpetrators of the crime are almost sure to be punished. While Providence seems to have defeated the fruitless Virgin Queen in her efforts to become the mother of America; while He seems to have chastised the mercenary motives of Sir Walter Raleigh, and the outrageous conduct of Grenville against the natives; while He seems also to have frowned upon the efforts of the London company to tyrannize the first colony through odious and dastardly officers, He seems to have smiled, graciously, upon the first fruits, the first offering of American democracy, and upon the virgin Princess who saved it at its birth, and thus became

its mother. Thus united by heroic deed, by affection, and by blood, the children of the first colony of the United States, and the children of the noblest Princess of the continent, struggled together for liberty through every trial and every peril, until the priceless boon was won. Their fame and their lives shall forever mingle in its joys.

The spirit of liberty that burst into life in Virginia, was first responded to by her only congenial companion on the globe, the United Republic of Germany. In 1614, a colony from that confederacy commenced the present city and State of New York. It was not until 1620, that the Pilgrim Fathers landed on Plymouth Rock, and founded New England. Thus the great State of the south and the great State of the north — thus “liberty and union” began.

The Pilgrim Fathers next founded the colony of Massachusetts Bay. Driven by religious persecution from all the endearments of their native land, they landed on the inhospitable shores of the north, in a cold and stormy December night. They had sailed from the same Plymouth Sir Richard Grenville sailed from, though moved by a vastly different motive. How equally different their destiny?

Before leaving the little barque that had borne them safely across the Atlantic’s boisterous waves, they solemnly declared they had undertaken to establish a colony for the glory of God and the

advancement of the Christian faith! No one acquainted with their sufferings and persecutions, can doubt the truth of their solemn declaration. No one who has read their history, can doubt that in every good effort, they received the smiles of Him they came to worship and in whom they placed their trust. Through every danger and every trial, they and their children struggled with Christian fortitude and heroic courage, until their efforts were crowned with freedom and success. Although the bones of the fathers have long since mouldered into dust, their sons and their daughters, and the truths they supported, "still live," and will live "forevermore."

The colony of Delaware was founded by the Swedes. Their courage, too, and their devotion to their rights, were soon tried and fully established. It is by no means strange that the land which then furnished a colony for American Liberty, though far away in the frozen regions of the north, should have since produced the matchless songstress of the age—the plaintive nightingale whose soft and sweetly thrilling notes have given transported thousands a taste of heavenly joys.

Maryland was settled chiefly by Catholics. True to their mission in the new world, they have fully proved their devotion to freedom. The colony that produced Charles Carroll, of Carrollton, must ever have cherished in her

bosom the living germ—the true spirit of the Goddess of Liberty!

Pennsylvania was commenced by the Quakers. Driven by persecution from England, they first sought an asylum in the land of the Pilgrim fathers. The legislature of that colony, in a dark and evil hour, in violation of their own history and most sacred obligations, in violation of their own solemn declaration of purpose, not only passed laws for their banishment, but provided, if any Quaker should return to the colony and renew his practices, he should be put to death! Under this law, four persons suffered death! This shocking violation of their most sacred obligations and principles, Providence seems to have chastised afterwards. The horrible consequences of their insane delusions in regard to the work of the devil, through the instrumentality of witches, seem to be the punishment. After this persecution, the Quakers resolved to form a colony where religious opinion and worship might be fully enjoyed. They accordingly sailed from England in 1681, and landed where the Quaker city stands. In the following year, William Penn arrived with a large number of emigrants, and founded the city of Philadelphia and colony of Pennsylvania. Thus doubly persecuted, first driven from their native land, then from the land of the Pilgrim Fathers, they founded the city and colony that have been doubly blest and honored—the city that gave

birth to the independence of the American colonies, and to the Constitution of the United States of America. Considering their origin, viewing the grand events that will honor them forever, we are admonished of evil, but then look with delight at the greatness and happiness of a people, clothed with a full share of the honors of a glorious history and union of States, and with the smiles of a benignant Providence. This is the keystone of the American arch of States—an arch as beautiful among the various kingdoms of the earth, as the rainbow in the cloudy sky—as durable, we hope, as the covenant of Him who placed it there.

In 1765, Mr. George Grenville introduced into Parliament the notorious stamp act, to tax all the colonies. When in advocating its passage, Mr. Charles Townsend used the following language: “and now will these Americans, children planted by our care, nourished by our indulgence of them, until they have grown to a degree of strength and opulence; and protected by our arms; will they grudge to contribute their mite to relieve us?” He was replied to thus by the eloquent and chivalric Barre: “They planted by your care—no—your oppression planted them in America! * * * They nourished by your indulgence! They grew up by your negligence of them! * * * They protected by your arms! * * * They have nobly taken up arms in your defense, have exerted a valor

amidst their constant and laborious industry, for the defence of a country whose frontier was drenched in blood." The passage of this act, aimed equally at the liberties of all the colonies, aroused and united them. In this important move, Virginia again took the lead. On the 28th May, 1765, the illustrious Henry introduced his celebrated resolutions in the house of Burgesses. The resolutions declared in substance that the colonies were not bound to obey the act; that they alone had always possessed the right to tax themselves. It was in the defense of these resolutions that he gave utterance to that equally celebrated burst of eloquence: "Cæsar had his Brutus, Charles the First his Cromwell, and George the Third"—Treason! Treason! cried the speaker and many members of the house—"may profit by their example"—thundered the dauntless Henry!

These resolutions were communicated to the other colonies. They all passed similar ones through their respective assemblies, and a convention of colonial deputies met the same year in the city of New York. In this coincidence we again see liberty and Union hand in hand.

From the memoir of Jefferson.

"The next event which excited our sympathies for Massachusetts was the Boston port-bill, by which that port was to be shut up from the 1st June, 1774. This arrived while we were in session in the Spring of that year. The lead in the house,

on these subjects, being no longer left to the old members, Mr. Henry, R. H. Lee, Mr. L. Lee, three or four others and myself, agreeing that we must boldly take an unequivocal stand in the line with Massachusetts, determined to meet and consult on the proper measures in Council Chamber, for the benefit of the library in that room. We were under the conviction of the necessity of arousing our people from the lethargy into which they had fallen, as to passing events; and thought that the appointment of a day of general fasting and prayer would be most likely to call up and alarm their attention; no example of such a solemnity had existed since the days of our distress in the war of '55, since which a new generation had grown up. With the help of Rushforth whom we rumaged over for the revolutionary precedents, and forms of the puritans of that day, preserved by him, we cooked up a resolution somewhat modernizing their phrases, for appointing the 1st day of June on which the port-bill was to commence for a day of fasting and prayer, to implore Heaven to avert from us the evils of civil war, to inspire us with firmness in support of our rights, and to turn the hearts of the king and parliament to moderation and justice. To give greater emphasis to our proposition, we agreed to wait on Mr. Nicholas, (Robert Carter Nicholas,) whose grave and religious character, was more in unison with the tone of our resolution, and to solicit him to move it. We accordingly went to him in the morning. He moved it the same

day; 1st June was proposed and it passed without opposition.

The Governor dissolved us as usual. We retired to the Apollo as before, agreed to appoint deputies to meet in Congress at such place annually, as should be determined, to direct from time to time the measures required by the general interest; and we declared that an attack on any one colony, should be considered as an attack on the whole. This was in May. We further recommended the several counties, to elect deputies to meet at Williamsburgh the 1st August ensuing, to consider the state of the colony, and particularly to appoint delegates to a general Congress, should that measure be acceded to by the committee of correspondence generally. It was acceded to and Philadelphia was appointed for the place, and the fifth of September the time of meeting. We returned home, and in our several counties, invited the clergy to meet assemblies of the people on the 1st June, to perform the ceremonies of the day, and to address them discourses suited to the occasion. The people met generally with anxiety and alarm on their countenances, and the effect of the day through the whole colony was like a shock of electricity, arousing every man and placing him erect and solidly on his center.

The religious sentiment of a country has always been the strongest feeling of society, and has always exerted the most powerful influence over the destiny of every people. While Robert

C. Nicholas was not at first, owing to his religious aversion to war, as active as Henry and Jefferson, yet in the hour of need he thus aroused the religious sentiment of the colonies in behalf of the cause ; this gave it the highest sanction and aided in placing it and the people "erect and solidly on their centers." According to the appointment of these resolutions, and the impulse thus given to the cause, the Congress of the colonies met for the first time, in Philadelphia. Of this Congress Mr. Webster thus spoke :

"The proceedings of this Congress are well known and have been universally admired. It is in vain that we look for superior proofs of wisdom, talent, or patriotism. Lord Chatham said that for himself he must declare, that he had studied and admired the free states of antiquity, the master states of the world, but that for solidity of reasoning, force of sagacity, and wisdom of conclusion, no body of men could stand in preference to this Congress." Mr. Webster adds "there is indeed nothing superior to them in the range of political disquisition. They not only embrace, illustrate and enforce everything which political philosophy, the love of liberty and the spirit of free inquiry had antecedently produced, but they add new and striking views of their own, and apply the whole with irresistible force in support of the cause which had drawn them together."

Thus the prominent part and influence, performed and exerted by Mr. Nicholas, in connection with his illustrious compatriots, led directly to the

greatest of achievements, American Independence.

From these additional testimonials it is easy to understand how and why it was, that Mr. Nicholas exerted such an influence upon his country, in these her most trying struggles.

Bishop Mead, in his work on old churches, ministers and families in Virginia, in giving a history of Williamsburgh, Bruton Parish, gives the names and sketches of some of the vestry-men of that Parish. Among these he adds, "there appears George Nicholas and his son Robert Carter Nicholas. The former came to this country a physician, doubtless duly qualified. His son Robert Carter Nicholas, was distinguished at the bar in Williamsburgh, in the House of Burgesses, in the Council, as treasurer of the State, and as a patriot in the Revolutionary war. But he had higher praise than all these offices could give him; for he was a sincere Christian and a zealous defender of the church of his fathers, when he believed her rights were assailed."

Mr. Hugh Blair Griggsby, in his early description of the Burgesses of 1776, thus describes him: "He loved indeed a particular form of religion, but he loved more religion itself. In peace or war, at the fireside or on the floor of the House of Burgesses, a strong sense of moral responsibility was seen through all his actions. If a resolution appointing a day of fasting and prayer, or acknowledging the providence of God in crowning our

arms with victory, though drawn by men of worldly views was to be, it was from his hands it was to be presented to the House, and from his lips came the persuasive words that fell not in vain on the coldest ears. Indeed such was the impression which his sincere piety, embellishing as it did the sterling virtues of his character, made upon his own generation, that influence was felt upon that which succeeded it."

Nor was his piety less conspicuous in a private sphere. Visiting on one occasion Lord Bottetourt with whom he lived in the strictest friendship, he observed to that nobleman, "my Lord, I think you will be very unwilling to die;" and when asked what gave rise to that remark, "because said he you are so social in your nature, and so much beloved, and have so many good things around you, that you must be loath to leave them." His worship made no reply, but a short time after, being on his death-bed, he sent in haste for Colonel Nicholas, who lived near the palace, and who instantly repaired thither, to receive the last sighs of his dying friend. On entering his chamber he asked his commands. Nothing replied his Lordship, but to let you see that I resign the good things of which you formerly spoke, with as much composure as I enjoyed them; after which he grasped his hand with warmth and instantly expired."

"The children of R. C. Nicholas were blessed with a mother of equal worth. She was the

daughter of Col. Wilson Cary of Hampton, a descendant of one of the first families who settled in the lower part of Virginia."

Let the following letter to her son Wilson Cary Nicholas, on entering public life bear witness :

"*Dear Wilson* :—I congratulate you on the honor your country has conferred on you, in choosing you their representative with so large a vote. I hope you are come into the Assembly without those trammels which some people submit to wear for a seat in the House.

* * * * *

I think from observation, I can venture to assert that the man of integrity, who observes one equal tenor in his conduct, who deviates neither to the one side nor the other from the proper line—has more of the confidence of the people, than the compliant time-server. I flatter myself too, you will act on a more liberal plan, than some members have done, in matters in which the honor and interest of this State are concerned ; that you will not to save a few pence for your constituents, discourage the progress of the arts and sciences, nor pay with a scanty hand persons who are eminent in either. This parsimonious plan of late adopted, will throw us behind the other States in all valuable improvements, and chill like a frost, the spring of learning and the spirit of enterprise. I have insensibly extended what I had to say beyond my first design, but will not quit the subject without giving you a hint from a very good friend of yours,

that your weight in the House will be much greater if you do not take up the attention of the Assembly on trifling matters, nor too often demand a hearing. To this I must add a hint of my own, that temper and decorum is of infinite advantage to a public speaker; and a modest diffidence to a young man just entering the stage of public life. The neglect of the former throws him off his guard, breaks the chain of reasoning, and has often produced in England, duels that have terminated fatally. The natural effect of the latter will ever be procuring a favorable hearing, and all those advantages that a prepossession in favor of the speaker produces.

You see my son, that I take the privilege of a mother in advising you, and be assured, that you have no friend so solicitous for your welfare, temporal and eternal, as your mother.

ANNE NICHOLAS."

"Tradition says, that Mrs. Nicholas after the death of her husband, R. C. Nicholas, at his seat in Hanover, was visited by some British officers and received them with great dignity. Her daughter-in-law, wife of her son George, and sister to Governor Samuel Smith of Baltimore, being recognized by one of the officers as an old acquaintance in Carlisle Pennsylvania, secured polite treatment for the family; but the officers, on discovering jewels and other valuables in the house, seized upon them and carried them off."

"Col. Nicholas died at his seat in Hanover

leaving five sons, among these were George who afterwards removed to Kentucky, and Wilson Cary, who was a member of the House of Representatives and Senate of the United States, and Governor of Virginia."

It is one of the remarkable facts of history that the best native blood of the new world has been mingled with the blood of the old, and with the great events of American history. One of the descendants of Pocahontas, Mr. Randolph, became united by marriage and blood with Thomas Jefferson, the father of Independence; his grand-child, uniting the blood of himself and Pocahontas, the mother of the first colony, became united by marriage and blood with the grand-daughter of Robert Carter Nicholas, who co-operated with Mr. Jefferson in the immediate steps to independence, and engrafted into the cause the religious element.

CHAPTER II.

“History is philosophy teaching by example.” Beautiful definition—beautiful because true. There is in every people a sort of sacred regard for history; a readiness to believe its records and pay grateful homage to its heroes. This loyal sentiment, this grateful feeling deserves the truth, because it is always ready to believe it, and to learn from the experience of fathers, brothers, or from distant or ancient peoples. One of the highest incentives, to chivalric or patriotic efforts, is that a grateful country will honor and a faithful historian record those efforts. What greater meanness than ingratitude? No people have been so blessed as ours—have received a heritage so ample and so rich. The greater the debt we owe to them who gave it; the greater the obligation to render at least justice to their memories. What is history? It is a written statement of the acts of its characters. A historian is a witness, a witness not sworn—not sworn to tell the truth the whole truth and nothing but the truth. Personal and political preferences and prejudices, sometimes bitter recollections and rancorous animosities are left free to suppress, distort or falsify the truth. Hence the great number and difference in histories.

This is so fully known to be the case that it is often said, the true history of an event or generation can not be written until all such causes shall have passed away; then a faithful pen may record the truth. When a man takes pen in hand to write history, he should say to himself, this pen shall aspire to no higher achievement than to record the truth. What, falsify history! Defame great patriots; let their great deeds die forgotten; suppress or distort them; pervert and mislead a people! Rather let this pen refuse to write, this hand refuse to move!

Whatever a man undertakes to do, he ought faithfully to perform. With these motives and objects, the writer of this book resumes his subject. He does not propose to write a full history; but only to place great achievements in their true connection, and to record great truths that have been omitted.

The next great events in the history of our country were the Declaration of Independence, the achievement of that independence, and the consummation of the revolution by the formation and adoption of the Constitution of the United States. From the beginning to the consummation of this, the grandest effort and achievement of men, Virginia and Massachusetts and their sons, chiefly maintained the lead. Thomas Jefferson, the inspired author of the "unanimous Declaration of the thirteen United States of America," was Virginia's son. John Adams the boldest and ablest advo-

cate of that declaration was Massachusetts' son. He who maintained that declaration and achieved that independence, through the long and bloody struggle as the great chief of war—George Washington! “first in peace, first in war, and first in the hearts of his countrymen,” was Virginia's son! James Madison too, the mover, the principal author, the father of the Constitution of his country, was Virginia's son.

Through the trying scenes of the revolution and the following years of peace, the articles of confederation had proved wholly inadequate to the great objects of the Union of the States. The Constitution was framed and submitted to the people of the several States, for their adoption or rejection. True, as it must have been, to its origin and history, that constitution did not propose to violate any of the rights, principles or liberties that produced it. It not only left with the people of the States, all the great rights of life, liberty, and property they possessed before, but it proposed to sanction, secure and guarantee them forever. In the fullness of its wisdom, looking through the vicissitudes of time upon the millions to come, it provided for its own expansion and improvement, commensurate with every measure, and the discovery of every truth calculated to perpetuate the rights and liberties, to alleviate the wants and sufferings, and to advance the happiness, and greatness of its people. When the Constitution was submitted, Virginia with her Washington, her Jef-

erson, her Henry, her Madison, and a host of great statesmen and orators besides, then stood among her sister States pre-eminent. Her adoption or rejection of that Constitution, must have been with her sister States, great, perhaps decisive, for good or for evil. Notwithstanding her great statesmen had been united as a family of brothers, in the great cause of independence, their liberties achieved, they differed widely in forming a government and Union of the States. When the Virginia delegates met in convention to decide the question of adopting that constitution, the result of their action, was a question of doubt and great anxiety. Jefferson was absent as Minister to France. Washington and Madison had already exerted their great powers in favor of the constitution, yet the opposition threatened to defeat its adoption, headed as it was by Patrick Henry, George Mason, William Grayson, James Monroe, and other distinguished patriots. At this critical period, and upon this great theatre, there appeared a member, who, though younger in years, and yet less distinguished than some of his seniors, was not then unknown to fame. George Nicholas, a son of Robert Carter and Ann Nicholas, was a civilian; a lawyer by profession and practice, yet his zeal for the great cause of his country, had been honored by the rank and commission of Colonel in the great revolution of the Colonies. At the bar and in the legislature of Virginia, he had met the learned

and eloquent lawyers and statesmen of his State. In these meetings and upon these theatres, he had displayed that knowledge of law and of government, and those elements of character, that had already given him rank with the great lawyers and statesmen of that period of unrivalled splendor in Virginia history. But he was now called upon one of the highest and most important theatres on which men are ever called to act. The destiny of his country was the issue. Determined in their purpose to make their utmost effort in favor of adoption, the friends of the Constitution arrayed themselves for the conflict. In the lead, this chivalric column of heroic statesmen, placed their brother compatriot, Col. George Nicholas. Although Madison, the father of the Constitution was among them, Nicholas was the chosen leader of his colleagues to meet the gigantic Henry and his Coadjutors. Equal to the position assigned to him, he opened the debate by a powerful effort in favor of the Constitution. He was met by the dauntless Henry ; from this beginning the contest continued through many anxious days. Conspicuously through that conflict of giants, can yet be seen in the mirror of its records, the herculean form, and yet heard from tradition the echo voice of George Nicholas. Supported by his noble colleagues, he not only held at bay the charges of opposition, led on by the hitherto matchless Henry, but turning the tide of the great contest, he came out a victorious advocate of the Constitu-

tion of his country. Its adoption was the consummation of the great mission of the mother Colonies—the grand achievement of the revolutionary fathers—the establishment of the purest, the wisest, and the noblest system of government ever conceived or formed by man. It was the beginning of a new era, not only in the history of States but in the history of the world.

When it is remembered that in addition to the great opposition referred to, a majority of the people of Virginia were then opposed to the adoption of the constitution, that at the next election in that State, a majority of the members elected to Congress, including the two Senators elected by the Legislature, one of them being the gifted Grayson, were opposed to the Constitution; when it is considered that if Virginia had remained out of the Union even a single year, that circumstance alone would have deprived the country of the great influence of Washington as President; of Jefferson as Secretary; of Madison as Congressman; when it is considered that the absence of these great men would have left the new government so weak—so wanting in the dignity and confidence which they were able to give it; that without them and their influence it would probably have been dissolved, or would have mouldered and decayed away, the patriot philanthropist, can but pause at this glimpse of the magnitude of that achievement, as well at the time and under the circumstances, as for the greatness of the victory itself. Hence

glancing abroad and down the stream of time, he catches a glimpse of the value of the efforts of George Nicholas; of him who is foremost and greatest in one of these contests, which had for its issue the destiny of the American continent, perhaps of liberty herself throughout all future time.

While the adoption of the Constitution was the completion of a past age, it was the beginning of a new one. The government must be put into action; the constitution must be construed, interpreted and applied to practical purposes. Its meaning to some extent must ever be constructive. The meaning given to it by its contemporaries in the discussion of its adoption, is therefore of great importance for all future time. That discussion throws great and important light upon the true interpretation of those provisions, from which disputes have arisen or may hereafter rise in the administration of its government. The writings and speeches of Washington, Adams, Jefferson, Madison, Hamilton, and others containing their interpretations of the Constitution, and the arguments in favor of its adoption and preservation, have been published at length. Their great and inestimable services to their country, are thus preserved for their country's good. The speeches and writings of Col. Nicholas have never been published in full. His early death in the midst of a great political struggle, left all his worldly affairs in a confused and scattered condition, and

it would extend this beyond the limits of an intended sketch, to give more than a few extracts from his speeches, as reported in the debates of the Virginia convention.

On the third day of the convention, he thus describes the efforts that had been made before the people, to arouse their opposition to the Constitution.

“It is true, sir, that many people have declared against a Constitution which they were told would destroy trial by jury; against a government, sir, which would establish a standing army; against a government which would abridge the liberty of the press; against a government which would tax all their property from them; against a government which would infringe the right of conscience; and against a government, sir, which should banish them to France as common soldiers, and which should destroy all their rights and liberties! This, sir, is the government of which they have given their disapprobation.”—*Virginia Debates*, p. 82.

In defending the Constitution from such assaults and in advocating its adoption, Col. Nicholas, defined those great principles of the Constitution that have since governed the great conservative party of the Union, the reproduction of which, from time to time, have given to other statesmen immortal honors. In the speech last quoted from, he expressed the great ideas and principles of the Constitution, that have more than once, saved the Union from being severed by the opposite radical doctrines of nullification by the States.

Mr. Henry had thus expressed one of his objections to the Constitution: "My political curiosity, exclusive of my anxious solicitude for the public welfare, leads me to ask who authorized them to speak the language, *We, the people*, instead of *We, the States*. States are the characteristics and the soul of a confederation. If the States be not the agents to this compact, it must be one great consolidated government."

Col. Nicholas replied: "The worthy gentleman entertained us very largely on the impropriety and dangers of the powers given by this plan, to the general government. * * * It amounts to this, that the powers given to any government, ought to be small. I believe, sir, this is a new idea in politics. Powers being given for some certain purpose, ought to be proportionate to that purpose, or else the end for which they are delegated will not be answered. It is necessary to give powers to a certain extent, to any government. If a due medium be not observed in the delegation of such powers, one of two things must happen; if they be too small, the government must moulder and decay away; if too extensive, the people will be oppressed. As there can be no liberty without government, it must be as dangerous to make powers too limited as too great. He tells us the Constitution annihilates the confederation. Did he not prove that every people have a right to change their government when it should be deemed inadequate to their

happiness? The confederation being found utterly defective, will he deny our right to alter or abolish it? But he objects to the expression "we, the people," and demands the reason why they had not said, "we, *the United States of America!*" In my opinion, the expression is highly proper. It is submitted to the people, because on them it is to operate. Till adopted, it is but a dead letter and not binding on any one; when adopted, it becomes binding on the people who adopted it. We are under great obligations to the Federal Convention, for recurring to the people, the source of all power. The gentleman's argument militates against itself; he says that persons in power never relinquish their powers willingly. If then, the State legislatures would not relinquish part of the power they now possess, to enable a general government to support the Union, reference to the people is necessary."—*Va. Debates*, p. 79.

Again, he says: "Can we trust our liberties to the President—to the Senate—to the House of Representatives? We do not trust our liberties to a particular branch; one branch has not the whole power; one branch is a check upon the other. The representatives have a controlling power over the whole."—*Va. Debates*, p. 165.

"The gentleman has adverted to what he calls the sweeping clause, and represents it as replete with great dangers. This dreaded clause runs in the following words: "To make all laws which

shall be necessary and proper, for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States or any department or officer thereof."

The Committee will perceive that the Constitution had enumerated all the powers which the general government should have, but did not say how they were to be exercised. * * * * * Does this give any new power? I say, not. It only enables them to carry into execution, the powers given to them, but gives them no additional power. * * * * *

"But it is objected to for want of a bill of rights. *It is a principle universally agreed upon that all powers not given are retained.* Where, by the Constitution, the general government has general powers for any purpose, its powers are absolute. Where it has powers with some exceptions, they are absolute with those exceptions. In England, in all disputes between king and people, recourse is had to the enumerated rights of the people to determine. Are the rights in disputes secured? Are they secured in Magna Charta, Bill of Rights, etc.? If not, they are generally speaking, within the king's prerogative. In disputes between Congress and the people the reverse of the proposition holds. Is the disputed right enumerated? If not, Congress can not meddle with it. Which is the most safe? The people of America know what they have

relinquished for certain purposes. They also know that they retain every thing else."—*Va. Debates*, p. 179.

The provision of the sixth article is, "that this Constitution and the Laws of the United States, which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land notwithstanding anything in the Constitution or laws of particular States."—*Virginia Debates*, p. 380.

Another one of the most powerful opponents, Mr. George Mason, thus expressed one of his objections to the Constitution :

"Is there anything in this Constitution which secures to the States the powers which are *said* to be *retained*? Will powers remain to the States, that are not expressly guarded and reserved? I will suppose a case, gentlemen may call it an impossible case, and suppose that Congress will act with wisdom and integrity. Among the enumerated powers, Congress are to lay and collect taxes, duties, imports and excises, and to pay the debts and provide for the general welfare and common defence, and by that clause, so often called the sweeping clause they are to make all laws necessary to execute those laws. Now suppose oppression should arise under this government, and any writer should dare to stand forth and expose the government at large in the abuse of those powers, could not Congress, under

the idea, of providing for the general welfare, and under their construction, say that this was destroying the peace, encouraging sedition and poisoning the minds of the people? And could not they, not in order to provide against this, lay dangerous restrictions on the press? Might they not even bring the trial of this restriction within the ten miles square, when there is no restriction against it? Might they not thus destroy the right of trial by jury? Would they not extend their implication? It appears to me they might and would? That Congress should have power to provide for the general welfare of the Union, I grant—but I wish a clause in the Constitution, with respect to all powers which are not granted, that they are retained by the States. Otherwise the power of providing for the general welfare may be perverted to their destruction.”—*Virginia Debates*, p. 313-14.

In his reply Col. Nicholas said:

“The opposers of this clause, which gave the powers of providing for the general welfare, supposed its dangers to result from its connection and extension of the powers granted in other clauses. He endeavored to show the committee, that it only empowered Congress, to make such laws as would be necessary to enable them to pay the public debts and provide for the general defence; that this *general welfare* was not united with the general power of legislation, but to the particular power of laying and collecting taxes,

imposts and excises for the purpose of paying the debts and providing for the common defence. The clause which was affectedly called the sweeping clause, contained no new grant of power. To illustrate this position he observed, that if it had been added at the end of every enumerated power, instead of being inserted at the end of all, it would be obvious to any one, that it was no augmentation of power. As for instance, if at the end of the clause granting power to lay and collect taxes, it had been added, that they should have power to make all laws necessary and proper, to collect taxes, who could suspect it to be an addition? as it would grant no new power, if inserted at the end of each clause, it could not when subjoined to the whole. *But who is to determine the extent of such powers? I say the same power which in all well regulated communities determines the extent of legislative powers. If they exceed those powers, the judiciary will declare it void.*

* * * *

It is a simple and plain proposition. It is agreed by all, that the people have all power. If they part with any of it, is it necessary to declare that they retain the rest.

Liken it to any other similar case. If I have one thousand acres of land and I grant five hundred acres of it, must I declare that I retain the other five hundred? Do I grant the whole thousand acres when I grant the five hundred, unless

I declare that I retain the five hundred? It is so in this case; after granting some powers the rest must remain with the people.—*Va. D. p.* 314-15.

* * * * *

“Again he says

“In Virginia all powers were in the government without any exception. It was different with the general government to which special powers were delegated for certain purposes.

“The gentleman last up, says that the general power of legislation includes everything. A general power does; but this is a special power of legislation; therefore it does not contain that plenitude of power which he imagines. They can not legislate in any case but in those particularly enumerated.” * * * * *

“The liberty of the press is secured. What secures it in England? Is it secured by Magna Charta, the declaration of rights or by any other express provision? It is not. They have no express security for the liberty of the press. They have a reliance on parliament for their protection and security. In the time of king William, there passed an act for licensing the press. That was repealed and since that time it has been looked upon as safe. The people have depended on their representatives. They will not consent to pass an act to infringe it, because such an act would irritate the nation. It is equally safe with us. As to trial by

jury, it is not on a better footing. It is by implication under the control of the legislature."—*Va. D. p. 179-80.*

It is worthy of remark that the liberty of speech, of the press, and the right of trial by jury, were *expressly* secured soon afterward, by amendments to the Constitution.

Early in the debate, Mr. Henry made the following statement, as one of his numerous objections to the adoption of the Constitution:

"There is a dispute between us and the Spaniards about the right of navigating the Mississippi. This dispute has sprung from the federal government. * * * *

"In my opinion the preservation of that river calls for serious consideration. It was agitated in Congress. Seven States have voted so that it is known to the Spaniards, that under our existing system, the Mississippi shall be taken from them. Seven States wished to relinquish this river to them. The Southern States opposed it. Seven States not being sufficient to convey it away, it remains now ours. If I am wrong there are a number on this floor who can contradict me—I will readily retract. This new government, I conceive, will enable those states that have already discovered their inelination to give away this river. Will honorable gentlemen advise us to relinquish this inestimable navigation, and place formidable enemies at our backs?"—*Va. D. p. 115.*

Another, one of the most powerful opponents of the Constitution, Mr. George Mason, had thus expressed one of his objections to the Constitution.

“It is ascertained by history, that there never was a government over a very extensive country without destroying the liberties of the people: History, also supported by the opinions of the best writers, shows us that a monarchy may suit a large territory; and despotic governments over so extensive a country; but that popular governments can only exist in small territories. Is there a single example on the face of the earth to support the contrary opinion? was there one exception to this rule? was there ever an instance of a general government extending over so extensive a country, abounding in such a variety of climates, where the people retained their liberties?”—*Va. D. p. 55.*

In reply Col. Nicholas proceeded:

“It is a fact known to many members, within my hearing, that several members have tried their interest out doors to induce others to oppose this system. Every local interest that could affect their minds, has been operated upon. Can it be possible that gentlemen elected for their ability and integrity, to represent the people of Virginia in this convention, to determine this question, can be influenced by motives like these? * * * An answer which has been given in this, that if this Constitution be adopted, the western counties will be be lost. *It is bet-*

ter that a few counties should be lost, than all America! But, sir, no such consequences can follow from its adoption, they will be much more secure than they are at present."

* * * * *

This Constitution, sir, will secure the equal liberty and happiness of all. It will do immortal honor to the gentlemen who framed it! * * * He (Mr. Henry) has touched on a string which will have great effect. The western country is not safe if this plan be adopted. What do they stand in need of? Do they want protection from enemies? The present weak government can not protect them. But the exercise of the Congressional powers, proposed by this Constitution will afford them ample security, because the general government can command the whole strength of the Union, to protect any particular part. There is another point wherein this government will set them right. I mean the western posts. This is a subject with which every gentleman here is acquainted. They have been withheld from us by the British since the peace. * * As to the navigation of the Mississippi, it is one of the most inalienable rights of the people, and ought to be relinquished on no consideration. The strength of the western people is inadequate to its retention and enjoyment. They can receive no aid from the confederation. This navigation can only be secured in one of two ways, by force or by treaty. As to force, the new government will be more likely to retain it than the old. It will also be more likely

to retain it by means of treaties; because, as it will be more powerful and respectable, it will be more feared; and as they will have more power to injure Spain, Spain will be more inclined to do them justice.”—*Va. D. p. 174.*

He concluded “by making a few observations on the general structure of the government, and its probable happy operation. He said that *it was a government calculated to suit almost any extent of territory.* He then quoted the opinion of the celebrated Montesquieu, from Vol. 1, bk. ix, where that writer speaks of a confederated Republic, as the only safe means of extending the sphere of a Republican government to any considerable degree.”—*Va. D. p. 180.*

Again he exclaimed to his opponents; “will you join an opposition which so directly tends to disunion? Can any member here think of disunion without horror!—*Va. D. p. 176.*

In the same speech he likewise spoke :

“It was said that France and Spain would not be pleased, to see the United States united in one great empire. Shall we remain feeble and contemptible to please them? Shall we reject our own interest to promote theirs?”

Under the articles of confederation, it required the consent of nine States to make a treaty. Mr. Henry, and other great opponents, made powerful efforts against the Constitution upon the ground, that there being but seven States in favor of relinquishing the Mississippi, it was, under the old sys-

tem safe to the west; but under the proposed Constitution the Senators from the States in favor of relinquishing that river, being largely over two-thirds of a quorum, might ratify a treaty giving up that river.

This was a most powerful weapon with the western members, and imperiled, the entire vote on the final question.

In replying again to these objections, Col. Nicholas said, "we have been alarmed about the loss of the Mississippi in and out of doors. What does it all amount to? * * * Is the right better secured under the present confederation, than the new government?"

I beg leave to draw the attention of the committee to this question. It is objected by my friend to the left, (Mr. Henry,) that two thirds of the Senate *present*, may advise the President to give up this right by a treaty, by which five States may relinquish it. It is provided in the first article, that a majority of each house, shall constitute a quorum to do business, and then in the second article, that the President, by and with the consent of the Senate, shall have power to make treaties. What part of the Senate? It adds, "provided two thirds of the *Senators* concur. What is the inference? That there must be a quorum, and two thirds of the *whole* must agree." * * * *

"But the worthy member says, that this strong government is such a one as Kentucky ought to dread. Is this just, Mr. Chairman? Is it just by

general assertions, without arguments or proofs to cast aspersions on it?

What is the situation of that country? If she has a right and is in possession of that river, I ask the gentleman why she does not enjoy the fruits of her right? I wish, if she has the river, she would give the people passports to navigate it. *What do they want?* They want a government *which will foree from Spain the navigation of that river.* I trust, sir, that let the situation, government and politics of America, be what they may, I shall live to see the time, when the inhabitants of that country will wrest from that nation, that right which she is so justly entitled to. If we have that government which we ought to have, they will have the ability to enforce their right.

* * * * *

"I think that Kentucky has nothing to expect from any one State, alone, in America. She can expect succor alone from a strong, efficient government, which can command the resources of the Union when necessary. She can receive no support from the old confederation. Consider the present state of that country: declared independent of Virginia, to whom is she to look for succor? No sister State can help her. She may call on the present general government, but, whatever may be the wish of Congress, they can give them no relief. There is my property, and there I intend to reside. I should be averse to the establishment of any system which would be injurious to it. I flatter

myself that this government will secure their happiness and liberty.”

* * * * *

Near the close of the debate a scene took place between him and Mr. Henry, which shows that some feeling had been aroused between them, in the discussion:

“Mr. Nicholas, * * * as to the claims of certain companies who purchased lands of the Indians, they were determined, prior to the opening of the land office, by the Legislature of Virginia, and it is not to be supposed they will be returned again. But, sir, there are gentlemen who have come by large possessions that it is not so easy to account for. Here Mr. Henry interfered, and hoped the honorable gentleman meant nothing personal. Mr. Nicholas observed, I mean what I say, sir.” * * *

“Mr. Henry, If the gentleman means personal insinuations, or to wound my private reputation, I think this is an improper place to do so. * * * As to land matters I can tell how I came by what I have—but I think that gentleman, Mr. Nicholas, has no right to make that enquiry of me, I mean not to offend any one, I have not the most distant idea of injuring any gentleman, my object was to obtain information. If I have offended in private life or wounded the feelings of any man, I did not intend it. I beg pardon, sir, for having interrupted thus far.”

“Mr. Nicholas; Mr. Chairman, I meant no

personality in what I said, nor did I mean any resentment. If such conduct deserves the contempt of that gentleman, I can assure him it meets with an equal contempt from me."

"Mr. President, observed that he hoped gentlemen would not be personal; that they would proceed to investigate the subject calmly and in a peaceable manner."

"Mr. Nicholas, replied that he did not mean the honorable gentleman, (Mr. Henry,) but he meant those who had taken up large tracts of lands in the western country. The reason he would not explain himself before was, that he thought some observations dropped from that gentleman, that ought not to have come from one gentleman to another."

The objections to the adoption of the Constitution referred to by the preceding quotations, and others were presented through the discussion with all the intrepid eloquence of Henry, the "Roman energy," and dense logic of Mason and the glowing genius of Grayson.

With the same ability indicated by the quotation from his speeches, Col. Nicholas defined and defended every important portion of the Constitution, embracing the nature, extent and division of the powers of the government and the security of the people, as the supporters and controllers of the entire system through their own chosen officers.

On the 25th June, 1788, Col. Nicholas announ-

ced that the friends of the Constitution desired no further discussion; that they were convinced, further time would only serve those, who wished to destroy the Constitution; that its friends wished it to be ratified, and such amendments as might be necessary, to be subsequently considered by a committee, in order to be recommended to Congress, to be acted upon according to the amendatory mode presented in itself. This closed the discussion, and the Constitution of the United States was ratified on the same day, by a majority of ten votes of the members of the Virginia convention; the same being, ayes 89, noes 79, votes.

After Independence was secured and also after the adoption of the Constitution of the United States, the next great question that agitated the people of the Union, was a question of territorial policy. In order to understand this question, it is necessary to commence with its beginning. When it became certain that the Independence of the Colonies was established, the friendly courts of Spain and France, manifested great uneasiness about the western limits of the new Republic. Spain being the owner of immense possessions on the Mississippi, and France in the West Indies, it became the object of both to make the Alleghanies the western boundary of the United States. Failing in this, Leon Gardoqui, the Spanish Minister, in pursuit of their next object, opened a negotiation in 1786

with John Jay, the Secretary of foreign affairs for the United States, concerning the Mississippi river. Jay's instructions from Congress, forbade him from conceding any right of the States to that river, but he reported to Congress, that by relinquishing their right to navigate it for twenty years, the States could obtain more than an equivalent for the same. Thereupon seven north-eastern States voted to rescind Jay's instructions, for the purpose of enabling him to cede away all right to the use of that river for twenty years. In 1787, Kentucky made her fifth application for admission into the Union. Her application was made through John Brown, an eminent lawyer and statesman, resident of Kentucky. He informed his constituents, that he believed the jealousy of the New England States, to any increase of Southern States had defeated their efforts, and he thought the same cause would have a similar effect with the new government. He gave it as his opinion that Kentucky would declare her independence.

In 1787, Hon. Henry Innis, a man of high and distinguished personal and political position, wrote to the Governor of Virginia, giving it as his opinion that Kentucky would form herself into an independent State in two or three years, because Congress did not protect her, and under the existing system she could not protect herself. He adds, "I have just dropped this hint to your excellency for matter of reflection."

While the people of Kentucky were thus baffled in every effort for admission into the Union; while they had failed in every effort to obtain protection for their frontiers, the Indians continued, incessantly their shocking murders.

Under these circumstances, Kentucky was called upon to elect delegates to the Virginia convention, called to adopt or reject the Federal Constitution; and from these causes nearly the entire population, including nearly all the leading men in Kentucky, were opposed to the adoption of the Constitution. The principal grounds of their opposition was the previous refusal of the General Government to protect their frontiers; her refusal to admit them into the Union as a State, and her refusal to secure them the use of the Mississippi river. In 1787, Kentucky held her seventh convention in Danville, having for its object the consideration of these measures.

But she was again foiled in her efforts and continued to struggle for the right of becoming a State, and of navigating the Mississippi river. This was her condition when George Nicholas advocated the adoption of the Constitution of the United States, and when soon afterwards he made her his home. His first public effort after his removal is referred to as follows by a distinguished gentleman and writer :

“In December, 1791, the ninth and last convention was elected, who assembled at Danville in April following, and framed the first constitu-

tion of Kentucky. George Nicholas, who had been eminently distinguished in the Virginia convention, which adopted the Federal Constitution, was elected a member of the Kentucky convention from the county of Mercer, and took an active and leading part in the formation of the first Constitution." Kentucky was soon afterwards admitted into the Union; the first fruits of Independence and of the Constitution of the United States, she thus commenced a career of glory with her maternal States.

In 1793, it was rumored that Jay, who was regarded as an enemy to Kentucky, was to be sent as Minister to England, and that the navigation of the Mississippi was to be abandoned by our government. These rumors, in the absence of contradiction, and, coupled as they were with the failure of the General Government to protect Kentucky from the incessant murders of the Indians, and her failure to protect the Mississippi trade, produced the fiercest excitement with the people.

There being no such thing then as transportation by steam, the currents of that great river and its tributaries, were the only outlets for the produce of its great valleys. Their prosperity, present and future, depended upon it. The general government was then negotiating a treaty with Spain on the subject. Fearing it would direct emigration and trade from the north-eastern States, there was a party there,

and its allies in the west, making every effort to defeat any acquisition in this direction. In Kentucky the people were denouncing them in the bitterest terms for a course of policies, so ruinous to their prospects.

We have already seen from his declarations in the Virginia convention, that Col. Nicholas considered the navigation of the Mississippi, one of the inalienable rights of the citizens of its valleys, and advised the government to wrest that right from Spain, by force if necessary, and secure it to our citizens. But after the adoption of the Constitution, the general government kept secret from the west her long delayed negotiations on the subject, and failed to protect the people in the use of the river. This created great dissatisfaction in the west, and led the people to believe, that the party in power would delay, and perhaps finally defeat the measure.

Their only hope then was to maintain friendly relations with Spain, until they could get an administration that would use the power of the government, to secure to them this inestimable boon. These were the circumstances and objects comprehended by Col. Nicholas and his party. Some of the enemies of that vitally important measure—enemies to the acquisition of the Mississippi—have attempted to slander their course as they did their policy.

Such attempts only show the vindictiveness or

short-sightedness of those who made it. A rash or insulting act, would have insulted the haughty Spanish monarch, and so far as could then be seen or supposed, would have endangered, perhaps defeated their wishes and objects.

The subsequent course of events proves this to have been the object of the opposition; to quarrel with Spain; thus defeat the acquisition by treaty; to refuse to hold the river by force or conquest, and thus entirely defeat that great measure. It is the true record of history, that the administration did dispute with Spain over this question; that it did also refuse to protect the citizens in the use of that river, and finally so insulted the government of Spain, that, in 1800, she ceded the whole of the territory of Louisiana to France by secret treaty; and nothing but the approaching war with England in 1803 induced the ambitious Napoleon to sell that inestimable country to the United States of America. Even after this acquisition the opposing party never ceased to pursue its old policy; and it is astonishing to witness the fact, that the same party ever so far obtained the confidence of the Monroe administration, as to influence it to cede a large portion of Louisiana—the portion since called Texas—to Spain, and that too for a very inconsiderable consideration.

The party in power did not stop at these efforts, blighting as they would have been to the prospects of the great Mississippi Valley. The

increase of foreign emigration to the United States, and its rapid tendency to the West were some of the reasons that induced the same party to pass the alien and sedition laws.

The close of the Revolution, the adoption of the Constitution of the United States, and the admission of Kentucky into the Union, caused a great rush of emigration to the rich and beautiful lands of the west. Kentucky having been the dark and bloody ground of Indian war, this first fair daughter of the revolution was peopled by many of the boldest spirits of the east. Shut out as they were by the impassable Alleghanies, from the Atlantic Markets, their only hope for trade was in the south; their means of transportation, the currents of her rivers. Before them stretched an almost boundless country, peopled by their deadly, hereditary foes—the cruel Indians. Here was the great heart and artery of a mighty empire, inviting millions to fell her forests, cultivate her soil, and build all the wants and institutions of civilization. When, therefore, this party proposed by these measures—proposed to surrender the Mississippi, destroy foreign emigration, and even silence opposition to these stupendous usurpations, it is not at all surprising that Kentucky was the first state to present her bold front against the party and the measures which threatened to blight forever the fairest prospect on the globe.

The people of the eastern states, even Vir-

ginia, did not at first see nor feel the pending ruin of the west. Jefferson and Madison, both men of peaceful dispositions;—Jefferson being in the Vice Presidency, it was the destiny of Kentucky chivalry first to feel the blows aimed at her liberty and prosperity, and to rise in constitutional rebellion against them; it was the great spirit of George Nicholas that chiefly led this army of patriots.

Soon after the Virginia Convention, Col. Nicholas removed to Kentucky. Here he devoted himself assiduously to his profession and maintained among her most gifted votaries, the highest position. But the great questions of that great period demanded a portion of his efforts. Kentucky struggling to become a State of the Union, and the Union herself just commencing her career for weal or for woe, demanded his assistance. As a delegate from the county of Mercer, he was chiefly the author of Kentucky's first Constitution. He also accepted the office of Attorney General or Constitutional adviser to Kentucky's first, and a second time her pre-eminent Governor, who was a distinguished patriot and soldier of the revolutionary war. In connection with the questions of the State, he was the great leader of his party on the national issues. His writings spread truth abroad and his speeches aroused great enthusiasm at home. When announced that he would speak on the great questions of the times, multitudes of his countrymen

gathered to hear him. Surrounded by great opposition, yet his bold facts and arguments produced the clearest conviction, and his appeals to patriotism were responded to by irresistible majorities. His efforts procured and produced the almost unanimous passage of the celebrated resolutions of '98, through the legislature of Kentucky; his letter on the great questions of the day was then written and published to the country. He thus gave the first great impulse to the cause; to the cause that proclaimed Thomas Jefferson Chief Magistrate of the Union, and thus commenced a career of goodness and of greatness unrivalled in the history of parties or governments.

The following letter from Mr. Jefferson to a son of Col. Nicholas, gives the history of the celebrated resolutions of '98.

Monticello, Dec. 11th, 1821.

To ——— NICHOLAS:

Dear Sir:—Your letter of Dec. 19th places me under a dilemma which I can not solve, but by an exposition of the naked truth. I would have wished this rather to have remained as hitherto without inquiry, but your inquiries have a right to be answered. I will do it as exactly as the great lapse of time and a waning memory will enable me, I may misremember indifferent circumstances but can be right in substance.

At the time when the republicans of our country were so much alarmed at the proceedings of the federal ascendancy in Congress, in the executive and judiciary departments, it became a matter of serious consideration, how head could be made against their enterprises on the Constitution. The leading republicans in Congress found themselves of no use there, brow-beaten as they were by a bold and overwhelming majority. They concluded to retire from that field, take a stand in the State legislatures and endeavor there to arrest their progress. The alien and sedition laws furnished the particular occasion. The sympathy between Virginia and Kentucky was more cordial and more intimately confidential, than any other States of the republican policy. Mr. Madison came into the Virginia legislature. I was then in the Vice-Presidency and could not leave my station. But your father (Col. Geo. Nicholas), Col. W. C. Nicholas, (a brother) and myself happening to be together, the engaging the co-operation of Kentucky in an energetic protestation against the constitutionality of those laws, became a subject of consultation.

Those gentlemen pressed me strongly to sketch resolutions for that purpose, your father undertaking to introduce them to that legislature, with a solemn assurance which I strictly required that it should not be known from what quarter they came. I drew and delivered them to him,

and in keeping their origin secret, he fulfilled his pledge of honor. Some years after this Col. Nicholas asked me, if I would have any objection to its being known that I had drawn them, I pointedly enjoined that it should not. Whether he had unguardedly intimated it before to any one, I know not; but afterwards observed in the papers repeated imputations of them to me, on which, as has been my practice on all cases of imputation, I have observed entire silence. The question, indeed, has never before been put to me, nor should I answer it to any other than yourself; seeing no good end to be proposed by it, and the desire of tranquility inducing, with me, a wish to be withdrawn from public notice.

Your father's zeal and talents were too well known, to derive any additional distinction from the penning of these resolutions. That circumstance, surely, was of far less merit, than the proposing and carrying them through the legislature of his State.

The only fact in this statement, on which my memory is not distinct, is the time and occasion of the consultation with your father and Col. Nicholas. It took place here, I know; but whether any other person was present or communicated with, is my doubt. I think Mr. Madison was either with us, or consulted, but my memory is uncertain as to minute details.

I fear, dear sir, we are now in such another crisis, with this difference only, that the judiciary

branch is alone and single-handed in the present assaults on the Constitution. But its assaults are more sure and deadly, as from an agent seemingly passive and unassuming.

May you and your cotemporaries meet them with the same determination and effect, as your father and his did the alien and sedition laws, and preserve a Constitution which, preserved in all its chastity and purity, will prove a blessing, in the end, to all the nations of the Earth.

With these prayers, accept those for your own happiness and prosperity.

THOMAS JEFFERSON."

On the same day, Col. Nicholas caused these resolutions to be carried through the legislature of Kentucky, he commenced his great letter to his friend in Virginia; to wit, November 10th, 1798. This letter preceded Mr. Madison's celebrated report about a year, and it is believed that the patriot, lawyer or statesman can read it with emotions only of grateful pleasure and pride. When it is considered that it was written in the first great contest of practical statesmanship, under the Constitution of our country; written in defiance of the pains and penalties of the laws and powers it denounced, it may then be appreciated as one of the efforts of a patriot in defence of the Constitution of his country, under the most trying circumstances, and in the most important period of her history.

CHAPTER III.

1
Lexington, Ky., Nov. 10, 1798.

MY DEAR SIRS :

* * * * * Having shown me that part of your letter to him which respects our politics, and myself, I have prevailed on him to lend me the letter, that I might have it in my power to answer it. I am induced to do this as well from a desire to remove the unjust impressions and representations which have been received by and made to our fellow citizens, of our views and designs, as from a wish, that by making our real sentiments public, an opportunity may be afforded of detecting the errors on which they are founded, if they really are erroneous.

Before I enter on the subject, let me request your calm and deliberate consideration of what I shall advance. Opinions and reasoning which are in opposition to what we think right ourselves, are often condemned and rejected too hastily; but this is not the way to remove errors; full and dispassionate investigation is the only means of arriving at truth, and the real patriot can have no other object in his political inquiries.

The warmth of my own passions, the improper influence which I am conscious, that they too

often have over my judgment, and the particular tendency which I feel, that they possess to lead the mind astray, in its attempts to form a just opinion, as to our present political questions, all conspire to make me urge this request on my friends whose good opinion I wish to preserve, whose unintentional errors I wish to see corrected, and whose well known patriotism I wish to rouse, before that period shall arrive, when a conviction of the most important truths will come too late; and when the remembrance that it was not felt earlier, will be attended with the most heartfelt sorrow and concern. If after having devoted the prime of your life to the establishment of the liberty of your country, if after having shed your blood in its defense, if after seeing you surrounded with children and grand-children, for whose sake you have voluntarily submitted to all the ills necessarily attendant on revolutions and wars, what would be your feelings in the decline of life, if you should see that liberty destroyed? I know you so well as to be satisfied that nothing could add to the bitterness of such a situation, but the recollection that you had, by an improper and unlimited confidence, even undesignedly contributed to it. Pause then, my friend, and think deliberately and dispassionately, and do not let any improper conduct in a foreign nation to which your attention is artfully turned on one side, blind you to the eminent danger which

hangs over the liberties of your country, on the other. At the time you are calling out arm, arm, against a foreign foe, who you say threatens the independence of our country, do not shut your eyes to domestic violations of our constitution and our liberties. What will it avail us, if we can preserve our independence as a nation, nay, if we can even raise our country to the highest pitch of national glory, provided we at the same time lose our own liberties? If France is at this time subjected at home to the military despotism which is said to reign there, will the conquest achieved by her arms, and the glory which surrounds her, compensate the people of that country in the smallest degree for their lost liberties? Can the power and confidence of tyrants ever alleviate the miseries of their slaves? If they can not, we ought to consider it as a truth of the most important nature, that independence abroad is of no real value unless it is accompanied with liberty at home.

The preamble to our Constitution declares, that the securing this liberty was the great and primary consideration, which induced the people of America to form that Constitution? "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and

our posterity, do ordain and establish this Constitution for the United States of America."

My feelings have forced from me these observations: I will now answer your letter.

You say, "we entertain none of your fears; our liberties we think are not in danger." It is not at all surprising when we form such different opinions of our political situation, that our conduct also should be so materially different; but as the conduct of either can be right only as far as the opinion by which it is actuated shall prove to be just, we ought carefully to ascertain which of those opinions is founded on propriety. No country can be free, unless it has a Constitution limiting in a sufficient degree, the powers of those who are appointed to administer the government; and also guarding those powers from abuse, as far as such a guard can be established. The most effectual guard which has yet been discovered against the abuse of power; is the division of it. It is our happiness to have a Constitution which contains it, a sufficient limitation to the power granted by it, and also a proper division of that power. But no Constitution affords any real security to liberty, unless it is considered as sacred and preserved inviolate; because that security can only arise from an actual, and not from a nominal limitation and division of power. Every violation of such a Constitution must be made in one of two ways; either by an assumption by the government at

large, of greater powers than is given to it by the Constitution, or by one branch of the government assuming to itself, or having transferred to it by the other branches, powers which the Constitution declares shall be exercised only by the other branches, or by the whole government. This transfer even of the Constitutional powers, from the whole to a part, or from the part to which they are given by the Constitution, to a part to which they are not given; is as dangerous to liberty, as an assumption by the whole of the government, of more power than is given to it by the Constitution, because the division of the power which is given, is as essential as its limitation to the preservation of liberty. Before, therefore, we can admit the truth of your opinion, that "our liberties are not in danger," we must be satisfied that our government has neither assumed to itself, others or greater powers than are assigned to it by the Constitution, by permitting any one branch of the government to exercise powers especially confided by the Constitution, either to the whole or to other parts of the government.

I will examine a number of the acts of our government by these tests. The Constitution declares that "Congress shall have power to raise and support armies," an act passed by Congress gives the President power in the event of the declaration of war against the United States, or of actual invasion of their territory by a foreign

power, or of imminent danger of such invasion, discovered in his opinion to exist, before the next session of Congress to cause to be enlisted and to call into actual service, a number of troops not exceeding 10,000; to be enlisted for a term not exceeding three years." The same bill also enacts, "that in addition to the aforesaid number of troops; the President is hereby empowered, at any time within three years after the passing of this act, if in his opinion the public interest shall require it, to accept any company or companies of volunteers either of artillery, infantry or cavalry, who may associate and offer themselves for the service, who shall be armed and equipped and clothed at their own expense, and whose commissioned officers the President is hereby authorized to appoint, who shall be liable to be called to do military duty at any time the President shall adjudge proper, within two years after he shall accept the same." By this act the power vested by the Constitution in Congress, "to raise armies," has been by them transferred to the President; and he is made the sole judge of the necessity of raising this army, and of the number that it shall consist of, so that the regulars do not exceed 10,000; but without any restrictions as to the number of volunteers, and as the President is at liberty to accept of volunteers at any time within three years after the passage of the act, and as they are liable to be called on to do military duty at any time the President shall

adjudge proper, within two years after he shall accept of their services, it may be truly said, that he has an absolute power for five years, to raise an army to any amount he pleases, to be commanded by officers of his own appointment, and to do such service as he shall be pleased to direct; and if these corps of volunteers are to be considered as select corps of militia, in which light they appear to have been considered by the amendatory act passed on this subject, which declares that after their service are accepted by the President, that they shall be exempted from military duty in other corps. The power given to the President by the bill, to appoint their commissioned officers, violates that part of the Constitution which "reserves to the States respectively the appointment of the military officers." The Constitution also gives power to Congress, "to provide and maintain a navy," but they have authorised the President to accept by the way of a loan, of any number of ships that may be offered to him. The Constitution has also given power to Congress "to borrow money on the credit of the United States; but they have given the President power to borrow 5,000,000 of dollars without any limitation as to the amount of the interest to be paid on the loan. Thus Congress have by these different acts, to the degree that I have stated, transferred the power over the purse and the sword vested in them by the Constitution, to the President; and if a power

over the purse and sword has always been properly considered as including within it all other powers, and if this power to the extent to which it hath been now given to the President hath already, as you suppose, produced forty ships of war, and 10,000 volunteers, and will also shortly produce more than 10,000 regulars, all officered by chosen spirits selected by the President himself, and dependant on him for their continuance in office, I beseech you, to inform me on what it is that you found your opinion, that our "liberties are not in danger." So far from my being able to concur with you in this way of thinking, after the most serious reflections on the subject, I am clearly of opinion that if the real difference between our government, as fixed by our Constitution and an absolute government could be ascertained, it would be found that those who have administered our government, have already by their different violations of the Constitution, and of the republican principles on which it is founded, done away and destroyed much the greater and most powerful part of this guard to liberty, which are contained in that Constitution; and which originally constituted the essential difference between our government and a despotic government. And that if, they have in so short a time, with the means which they had in their power, and when the Constitutional barriers, been able to affect so much that it will not require any great effort on their part, to remove the remaining

difference between the two governments, when their means of attack are increased in a twenty fold degree, and when the principal Constitutional barriers are already laid prostrate at their feet, unless the people of America, will rally around their Constitution for its protection.

You say also, "the alien law you wish perpetuated." My knowledge of you convinces me, that you will recall that wish, if I can satisfy you that this law violates the Constitution, by exercising a power not delegated to Congress by the Constitution, and by infringing on authority which prior to the Constitution was vested in the State governments, and which the Constitution still reserved to them, that it violates rights secured to alien friends by the Constitution, of the Federal as well as the State governments; that it is impolitic, and that it is unjust and unnecessary. You know that this act concerns alien friends only, their being another special act of Congress directing what shall be done with alien enemies, this will render it necessary in the discussion of this question to take any notice of the doctrine concerning alien enemies. To understand the Constitutional powers of Congress on this subject, we should recollect the State in which this business was, prior to the adoption of the Constitution, and then ascertain the change which was made in it by that Constitution. Prior to the adoption of the Constitution, the people inhabiting the different States might have been divided into two classes,

natural born citizens, or those born within the States, and aliens or such as were born out of it; the first by their birth-right became entitled to all the privileges of citizens, the second were entitled to none, but such as were held out and given by the laws of the respective States prior to their emigrating to them. I say, by the laws that were in force prior to their emigrating to the State, because, although each State as a sovereign and independent State, had an unquestionable right to declare on what terms strangers should be permitted to come into the State, and what privileges they should be entitled to, after they had emigrated to the State; these terms after a stranger had in consequence of their being offered to him actually removed to the State, constituted a compact between him and the State, which could no more be changed by one party to it without the consent of the other, than any other compact can be altered. But still the State had a right to change those terms whenever it adjudged it proper to do so, as to all future emigrants. The laws then of each State must be resorted to, to ascertain what were the privileges granted to emigrants, and upon what terms, and at what times they were entitled to those privileges. In this State and in Virginia the privileges of alien friends depended on the Constitution of each State, the acts of its legislature and the common law; by these they were considered, according to the time of their residence and their

having complied with certain requisites pointed out by these laws, either as denizens or naturalized citizens. As denizens, "they were placed in a kind of middle state between aliens and natural born citizens;" by naturalization, they were exactly in the same condition that they would have been if they had been born within the State, except as far as was especially excepted by the laws of each State. The degree of privileges to which each class of aliens was entitled was different, but the claims of each to the privileges annexed by the law to this class, was equally well established, and the one could no more, with justice or by law, be deprived of his inferior privileges than the other could of his extensive one. And as far as these privileges did extend, they both had the same legal claim to them, that the natural born citizen had to his privilege. Like the natural born citizen, they both owed allegiance to the State, were equally liable to be punished for offences against it, and were equally entitled to the protection of the laws, to security against oppression, and to every legal means of self-justification, when attacked by the process of law. The distinction between these two classes of aliens was not only known to, and established by law, but each class had a particular name affixed to it by law, the law denominating one of them denizens, the others naturalized citizens, and the common law had affixed such distinct and appropriate ideas to the terms deniza-

tion and naturalization, that they can not be confounded together, or mistaken for each other, in any legal transaction whatever.

They were so absolutely distinct in their natures, that in England the rights they convey, can not both be given by the same power; the King can make denizens, but nothing but an act of parliament can make a naturalized subject, and although the powers which belong to both King and parliament, under the English Government were vested in the State government at the time of the revolution, still they have always been considered as distinct powers, and as such exercised by granting the different degrees of privileges upon the different terms specified by law, as qualifications necessary to entitle each class of alien friends to the privileges annexed to that class; and the legal distinction between them and the appropriate meaning given to the name by which each class was distinguished, continued to be recognized by the laws of the States in the same manner that it was in England, as may be fully proved by the act of the Virginia legislature, "to naturalize the Marquis LaFayette." This was the legal state of this subject in Virginia, when the Federal Constitution was adopted; it declares that "Congress should have power to establish an uniform rule of naturalization throughout the United States," but it also declares that "the powers not delegated by the Constitution to the United States, nor prohibited by it to the

States, are reserved to the States respectively, or to the people." The power of naturalization, and not that of denization, not being prohibited to the States by the Constitution, that power ought not to be considered as being given to Congress by the Constitution; but, on the contrary as being reserved to the States. As the words do not give this power, neither does it come within the reason on which the other power was given. The Constitution declares that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States;" if, therefore, the power of naturalization had been left in the respective States, this consequence would have followed; they might have established different rules, and a man who could not have been naturalized by the law of Virginia, he might have been naturalized by the law of Maryland, and then as a citizen of Maryland, he would have been entitled to all the privileges and immunities of a citizen of Virginia. It was, therefore, absolutely necessary to prevent this inconvenience, and the evils which would necessarily grow out of it, to vest Congress with the exclusive power of naturalization; as by this means no man could be admitted as a naturalized citizen of one State, by any qualification different from that which would be required in any other State. But this reason did not apply to the right of denization because this did not make

a citizen of an alien, but only placed him in a middle State between the two; and because it only gave him local privileges, which he was so far from being entitled to carry with him into another State, that he actually lost them by his removal from the State giving them. And, although the individual State might for the reasons assigned, have been willing to give up to Congress the power of naturalization, it would have been very dangerous and impolitic to put it in the power of a majority of the States in the Union, to prohibit emigration to the other States. The ninth section of the first article, and the fifth article of the Constitution, prove beyond contradiction that the Constitution so far from intending to give Congress any other powers on this subject but that which it does expressly give to the body, "to establish an uniform rule of naturalization," has expressly forbid such a power being given them, even by an amendment to the Constitution, prior to the year 1800; and, therefore, must prove also that this act is unconstitutional. But admitting for argument sake that Congress had a right to legislate on this subject, I conceive that the act which they have passed respecting it, is unconstitutional, from the nature of the provision contained in the act. If they had a right given them by the Constitution to legislate on this subject, it could be no greater right than was before vested in the

State governments; and the State laws which have been passed respecting it prior to the adoption of that Constitution, were unquestionably in force until Congress did legislate concerning it, and all the terms held out by those laws were binding on the United States, as to all who had emigrated here prior to the first act of legislation by Congress respecting it. If those State laws are examined, it will be found that every security which is given to a natural born citizen, for the enjoyment of his privileges, is also given to all alien friends for the enjoyment of theirs; and that those laws were so far from intending to deprive persons in their situation, of any privilege which would prevent them from having as full and as fair trials as natural born citizens were entitled to, that they have in certain cases allowed them to claim privileges in our Courts, (such as that their jury should consist of half foreigners,) which were allowed to no other persons; and the federal Constitution also declares that in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by jury, and the trial of all crimes shall be by jury. We find in these clauses no terms of restriction, which can confine their operation, or the privileges which they are intended to grant to any particular persons; on the contrary the expressions used in the Constitution are general.

Suppose an alien who had resided here many

years under the protection of the State, the laws and in the enjoyment of the privileges given him by those laws, without being naturalized under the laws of the United States, was to be prosecuted for treason, would he be tried by a jury? Certainly he would. If so, it would be because the law directs that this shall be the case; for there can be but one legal mode of trial, no discretionary power having been vested in any court to prescribe or alter the mode which shall be pursued. If this is the legal mode of trial, it is the privilege of the alien to have it followed, and in a prosecution for treason he could not be legally deprived of it. And if this would be his privilege in a prosecution for treason, although he had never been naturalized, the Constitution secures it to him equally in all other cases, where accusations are brought against him, because it declares, "that in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of the counsel for his defence."

Considering this punishment of banishment as

a novelty in our law, it is for that reason also unconstitutional, because the Constitution declares that, "cruel and unusual punishment shall not be inflicted."

And, although this law directs this punishment to be inflicted on alien friends only, if the principle is once admitted to be a Constitutional one, it will soon be extended to natives also; and then the best of our patriots, would under new fangled charges of sedition, be sent to Botany Bay, to lament the general downfall of liberty, with the British patriots who have been already exiled there, under sentences given on similar charges.

This act is also unconstitutional, because the Constitution declares, "that the judicial power of the United States, shall be vested in courts, to be established by Congress, the judges of which shall hold their offices during good behavior," whereas this act gives the President power to judge and determine in this case; if that deserves to be called a judgment, which is given without a trial of any kind, and on a suspicion only.

If, then, the aliens who came to this country in consequence of the legal assurances they had received, that they should enjoy certain privileges; that they, in common with all others residing here, should be protected in the enjoyment of all their just privileges; that they should never forfeit them but in consequence of their own improper

conduct, and not then, until the charge against them had been established before a proper tribunal, after a full, fair, and legal investigation of that charge; I must be warranted in saying, that this law is unconstitutional, because it puts it in the power of the President to banish them, a punishment hitherto unknown to our laws, and now confined to them alone, and that upon suspicion only, and, without a previous trial of any kind. That this act is impolitic, no man can doubt, who knows the extent of the present uncultivated tracts of country, in the United States.

Until within a very short period, it has been universally admitted as a truth, that there was no line of policy so important to us, as the encouraging of emigration; as a proof of it, the Declaration of Independence states it as one of our charges against the tyrant, George III, "that he endeavored to prevent the population of these States, for that purpose obstructing the laws of naturalization of foreigners, refusing to pass others to encourage emigration hither and raising the conditions of new appropriations of lands."

The true way to remove all danger from emigrants is to make it general. In religion, a general toleration prevents danger from any one sect, as all others would unite against one which should attempt to act improperly. So it would happen if emigrants from every quarter of Europe

were admitted to America. The danger apprehended from them is, that, notwithstanding their removal to this country, they would still retain a stronger attachment to their native land, than to America. Although the truth of this proposition might well be doubted from the reason of the thing, when applied to those who voluntarily left one country from disgust, to remove to the other from choice, and whose future prospects, both for themselves and their children, would depend altogether on the prosperity of that country to which they had removed; and, although the general conduct of the natives of the British dominions, who then resided in America, proved the contrary in our war with that nation, I will for argument sake, admit it to be true in its fullest extent, and yet I should conclude that no danger could arise from it, provided those emigrants from Europe prefer America to any other country but their own. This would certainly happen as well from that predilection to America which brought them here, as from the antipathy which generally prevails between the citizens of the different countries of Europe. Then in case of a rupture between America and any one nation of Europe, besides her own natural subjects, she would be aided to the utmost by all the emigrants from every other part of the world. This is also verified by the conduct of foreigners in general, residing in America in our present contest with

France; so that, instead of emigrants weakening America in time of war, she would, by their means, gain as much additional strength, as the total number would exceed the whole number from that nation with which she was at war; and the emigrants even from that country, would be restrained from "adhering to their former countrymen, or from giving them aid or comfort," by the penalties annexed to Treason, which such conduct would subject them to. Perhaps it might have been hoped and expected by the friends of this bill, that a law of this kind would make all persons coming within its descriptions perfectly subservient to the will of the President. This idea is confirmed by an address from a number of aliens in Albany, in which they pledge themselves by every consideration binding upon persons and property, to support all the measures of the government. In answer to this, they are told by the President, that as long as they do act up to their promise, by supporting by every means in their power, all the acts of the government, that they shall be treated with hospitality. Perhaps also a knowledge of human nature might have convinced the framers of this bill, that the absolute power which it gives to the President over those coming within its provisions, would enable him to dictate also, to all their connexions, friends and acquaintances, who would not wish to see them banished from the country, and all that they held most

dear. But, if the policy of the party extended its views still further, and from a knowledge of the existing convulsions in Europe, and the causes which have produced them, wished to put it in the power of the President to discourage and prevent all who are engaged there in fruitless struggles for liberty, from emigrating to America, if they are unsuccessful at home, at the same time the door was left open to receive all abettors of tyranny if they failed in their present contests. This act may go a great ways towards contaminating and destroying those republican principles, which now exist in America, and which are the only real support of our present Constitution. Whatever effect these suggestions may have on your judgment, I flatter myself that I must have proved to your satisfaction that this act is unconstitutional, unjust, impolitic and unnecessary.

You say "we think that no words can justify sedition under a constitution formed as a basis of government amongst a civilized people. We submit with cheerfulness to laws regularly enacted by a great majority of our rulers."

It is not necessary for us to inquire whether the authors of false and malicious publications, which the law denominates libels, ought to be made punishable by law, because they have always been liable to such punishment. The question is, has Congress a right to pass a law on the subject, and under the pretext of pro-

viding a punishment for that offence, which the laws of the different States had before sufficiently provided, to destroy the liberty of the press, contrary to an express prohibition contained in the federal Constitution. Seditious writings do not constitute the only, or the greatest offence which can be committed against the community, why then has not Congress provided punishment for the others? Certainly for this reason, because they had no constitutional power given them to pass such laws. There is the same reason against their passing laws on this subject, with this additional one, that the Constitution expressly declares, that they "shall pass no law abridging the freedom of the press." If it is asked where is the injury arising from this law, if there were other laws on the same subject, existing in the different States, prior to the passage of this law? I answer that the wrong consists in their assuming to themselves a power to legislate on a subject, not only not entrusted to them, but absolutely forbid them by the Constitution, that if this is once allowed, the only barriers contained in the Constitution for the security of liberty will be destroyed, and that this law ought to be considered, not as the final regulation which is intended to be made on this subject, but as an experiment, only to try the temper of the people, and as the forerunner of other acts, that would soon be passed respecting it, upon a much more extensive scale, if this

is submitted to. If any man doubts that this would be the case, let him examine the sedition bill passed by the Senate, which destroyed the liberty of speech, as well as the freedom of the press—a bill which was altered in the House of Representatives, so as to bring it into its present shape only by a very small majority. But even that bill was not more unconstitutional than the one which has actually passed, because the Constitution gives no other security for the enjoyment of one of these privileges, than it does for the other, and they might also, at the same time as constitutionally, have attacked religious liberty, because that also depends on the same clause in the Constitution, which is in these words: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." But it is argued by the friends of the law, that if similar laws do now exist in the different States, that this law does not abridge the freedom of the press, and, therefore, is no violation of the Constitution. This by no means follows as a consequence, for although the State legislatures may have constitutionally passed laws on this subject, under the powers given to them by the State constitutions, yet Congress could have no right to pass such laws,

when the Federal Constitution declares that they shall pass no laws respecting it. The prohibition contained in the Federal Constitution is, that Congress shall not exercise this power *at all*, but leaves the power as it stood before, in the State governments, and the laws existing in the State governments render the passing of such a law by Congress, altogether unnecessary. Because as seditious writings were forbid and punishable by the laws of every State, and no officer of the general government lost the protection of the State laws by going into office, he would have the same right to apply to a court under the State laws, for redress of any injury of this kind that any other citizen would have. Besides the remedies given by this act, are public prosecutions, and it has been formerly determined in common law courts, that a libel against an official character, belonging even to a foreign country, is cognizable and punishable in those Courts: there can be no doubt, therefore, but that a libel against an officer of the general government, which is so immediately connected with the State governments, as to be in some respects the government of each State also, and whose constitutional acts are the supreme law in each State, would also be cognizable in the State courts. This argument may also be strongly illustrated another way: "the United States, in their united or collective capacity, are the objects to which all general provisions in

the Constitution must refer." Now it is evident, that though restrictions on the freedom of the press, with various limitations, are known in each State individually, yet in the United States, as such, no such restriction was known, prior to the adoption of that Constitution; when, therefore, the Constitution declares that Congress shall pass no law abridging the freedom of the press, it must mean, that they should establish no legal restrictions whatever on it, because any restriction, however small, when imposed by them, would be abridging the freedom of the press in the United States, as such, as no restriction by them had ever existed prior to that time. If this clause receives the construction that I contend for, it has an important and forcible meaning, that Congress shall not legislate at all upon this subject, and leaves it with the mass of powers which were reserved to the State governments. But if it is construed to have reference to the restrictions imposed by the State governments, on the freedom of the press, by authorizing Congress to impose similar ones, it is nugatory; because it would make the extent of their power depend on the State regulations, on this subject, and would make their laws change and fluctuate, with all the alterations that would be made by the States respecting it, and it would be void also, for its uncertainty, because as the restrictions are different in the several States, and as the laws of no particular States are declared

to be the criterion which should regulate the conduct of Congress on this subject, any law they could pass respecting it, would "abridge the freedom of the press," in some of the States, although it might not do it in others. Unfortunately for the favorers of this doctrine, their oracle, Hamilton, has reasoned against it in the most conclusive manner, when proving that a bill of rights, was not only unnecessary in the proposed Constitution, but would have been even dangerous.

He says: "I go further, that bills of rights in the sense and in the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. They would contain various exceptions to powers which are not granted, and on this very account would afford a colorable pretext, to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given, by which the restriction may be imposed? I will not contend that such a provision would confer a regulating power, but it is evident that it would furnish, to men disposed to usurp, a plausible pretence for claiming that power. They might urge with semblance of reason, that the Constitution ought not to be charged with the absurdity of providing against the abuse of an authority which was not given, and that the pro-

vision against restraining the liberty of the press, afforded a clear implication, that a power to prescribe proper regulations concerning it was intended to be vested in the national government. This may serve as a specimen of the numerous handles which would be given to the doctrine of the constructive powers, by the indulgence of an injudicious zeal for bills of rights." This reasoning of his is also a sufficient answer to the argument which they draw, from this prohibition on the power of Congress being contained in an amendment to the Constitution, which, as they suppose, is an admission by implication, that the Constitution itself did give a power to abridge the liberty of the press. This argument may also receive several other satisfactory answers. Suppose this reasoning was just, would it not follow that after the amendment had taken place, by which a change had been made in the power given to Congress in this respect by the Constitution, that that power, as far as was consistent with the amendment, would be as effectually done away, as if it had never been given by the Constitution; and as the amendment says they shall pass no law abridging the freedom of the press, it certainly does it away *entirely*. Besides the preamble to amendments, states that "the conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent a misconstruction or abuse of its powers, that further declaratory and restrictive

clauses should be added and as extending the ground of public confidence in the government, will best ensure the beneficent ends of its institution." Considering then this particular clause in the amendment, as being either declaratory or restrictive, it would be contrary to common sense, as well as every rule of legal construction, to make this clause, which also in itself contains the strongest prohibition against the exercise of such power, amount to an authority to exercise it. Further, admit that this amendment does prove in the fullest manner, that the Constitution did give Congress such power, yet as they had never, prior to the adoption of that amendment, really exercised that power, the amendment does away that power as effectually as if it had never existed at all. For, as the liberty of the press was not actually abridged, although Congress had a power under the Constitution to abridge it, until they had actually exercised that power, Congress could not after the adoption of the amendment pass any on that subject, because that law would then, as the United States for the first time, "have abridged the freedom of the press," which the amendment declares, that no law of their shall do. Another strong argument that the Constitution did not intend to give, and that the amendment did not intend to prohibit altogether; the power of making laws on this subject, is that no checks are to be found in either, similar to those in the bill of rights in the several State

Constitutions, guarding this power against abuse. But because this bill admits that every such law ought to be guarded against an abuse of the power which it gives; did the framers of this Constitution then intend to leave it to the pleasure and patriotism of the friends to arbitrary power, either to guard their bills of this kind properly, or to send them out unshackled, that they might the better effect their purpose of inspiring terror.

The advocates of this bill give it great merit, because it declares that in every prosecution founded on it, the defendant shall be at liberty, "to give in evidence in his defence, the truth of the matter contained in the publication charged as a libel."

But in the prosecutions contemplated and authorized by this act, this would, in ninety-nine cases out of a hundred, be no privilege at all. This act declares that, "if any person shall publish any false scandalous, or malicious writings against either house of Congress of the United States, or the President of the United States, with intent to defame or bring them or either of them into contempt or disrepute, or to excite against them or either of them, the hatred of the good people of the United States, that he shall be punished by fine and imprisonment." Now it must be obvious that very few charges that will be brought against either house of Congress, or the President, will be founded on a single or a simple fact, which will be capable of being proved.

All political writings contain not only facts, but also reasoning and deductions drawn from those facts, and the object of the writer must generally be illustrated by the reasoning and deductions drawn from the facts and not from the facts themselves; and the libel, if it is one, will consist generally in what is contained in that reasoning, and those deductions, and not in the facts. But evidence can be given only of the truth of facts, and no testimony can be brought to prove the truth of the opinions stated, as arising out of those facts. The consequence, therefore, must be either that A. will be found guilty of the charge brought against him, because he does not prove the truth of that which is incapable of being proved, that he will be found guilty or acquitted, according to the political sentiments of his jury; upon the same charge, a jury of republicans would acquit him, a jury of aristocrats would condemn him. A. would be acquitted to-day, and B. condemned to-morrow, for the same publication. Can this be right? If it is not, does it not prove unquestionably, that this pretended privilege is a delusion only. I will illustrate this by two examples—suppose A. was to publish, in writing, that the President had by his writings declared his approbation and esteem of monarchical governments, and disapprobation of, and dislike to republican principles, and was to argue from thence, that he was unworthy of the confidence

of a people, living under and attached to republican government; and was also to assert, that the sedition bill was a violation in a very plain instance, and was then to argue that all who had been concerned in the passing of it had violated that Constitution, and by doing so, had also violated their oaths, by which they were bound to support that Constitution. If A. was tried for this publication, he might prove by the President's writings, and the sedition bill, that what he said, as to them, was true; but how could he prove by the inferences that he drew from them—that the President was unworthy of public confidence, and that all concerned in passing the sedition bill had wilfully violated the Constitution and their oaths, were true also? Neither could it be proved by testimony, and yet as a freeman, A. had a right to form this opinion, and the opinion itself being founded on facts, he had a right to communicate it to his fellow citizens, to prevent them from placing an improper confidence a second time in these men. But for this opinion A. would be either applauded or condemned by a jury, according to their private political sentiments.

This law then, in the first place, declares it to be an offence to publish a writing, the truth of which is from its nature incapable of being proved, and then graciously adds, that before you are convicted of this offence you may, if you please, make an attempt to prove the truth

of the charge, although that attempt when made, must be ineffectual, because it is to do a thing which is impossible to be done. If the writer's condemnation or acquittal is to depend on the political opinion of a jury, collected in a country rent into political factions, and selected by an officer under the absolute influence and control of his prosecutors and enemies; will it not put a total stop to all political writings, but those in favor of government, and how long even will the shadow of liberty remain, after the door of information is, by that means, effectually barred against the body of the people. So far from its being right to abridge the freedom of speech or of the press, when it is exercised to censure the measures of government, it is the only time when it is necessary to protect either of them. As long as the speaker or writer approves of their measures, he may not only proceed with safety, but he will be thanked and paid for it. If he praises handsomely he will be taken into favor, if he deifies the object of his flattery, he will confess that he has "melted his heart." It is said that a pleasing song has been paid for with an office; that many have been given as rewards for addresses, and that more than one have been taken from those who refused to become addressers.

What has been said must prove that the liberty of the press, ought to be left where the

Constitution has placed it without any power in Congress to abridge it, that if they can abridge it, they will destroy it, and that whenever that falls, all our liberties must fall with it. I can not close this part of the subject better than by copying what was said respecting it, by our late envoys, their expressions on this occasion, are so just and forcible, as to give real excuse to lament that their abilities are not oftener exerted in illustrating and enforcing republican principles. They say "the genius of the Constitution, and the opinions of the people of the United States, can not be overruled by those who administer the government. Among those principles deemed sacred to America, among those sacred rights considered as forming the bulwark of their liberty, which the government contemplates with awful reverence, and would approach only with the most cautious circumspection, there is none, of which the importance is more deeply impressed on the public mind, than the liberty of the press. That this liberty is often carried to excess, that it has sometimes degenerated into licentiousness, is seen and lamented, but the remedy has not yet been discovered. Perhaps it is an evil inseparable from the good with which it is allied, perhaps it is a shoot which can not be stripped from the stalk without wounding vitally, the plant from which it is torn." Do you not discover how materially the language of many of the warmest advocates of the

measures of government has been changed respecting these bills. When they were first enacted, they were the cause of great joy and triumph, to the whole party, and the most zealous amongst them, insulted, bullied, and threatened all who would not admit that they were both constitutional and necessary, and every art and argument was used, to bring the people into this way of thinking, and notwithstanding they had been opposed by nearly one-half of the House of Representatives, were disliked by a great majority of the people of America, and were considered as unconstitutional, by great numbers who had always been among the warmest supporters of the government, many of the most influential characters in the government party took every opportunity to express their contempt, for all who disapproved of them; and the officers of government, to imitate them as much as possible, gave the title of these bills as names, to two of the public armed vessels, calling one "The Sedition Act Cutter," and the other "The Alien Law Smack."

But these men do not acknowledge, that they are unconstitutional; therefore, if they have it in their power so to do, they must, to be consistent with themselves, vote for similar bills, whenever they suppose they will be expedient.

The people who oppose these bills on the ground of their being unconstitutional, ought never to vote for men, who are opposed to them, only

because they consider them inexpedient at this time. It is also extraordinary that these men who declare that they consider these bills as useless and impolitic, are against the repeal of them, upon a supposition that an effort to repeal them would irritate men's minds to such a degree, as to baffle the opposition to the attempt that they suppose will be made by the government party, for their revival, after the term for which they are now in force shall expire. The policy of these gentlemen amounts to this, it will be expedient to let these bills, which they acknowledge to be useless and impolitic, and which nine-tenths of the people believe to be dangerous and unconstitutional, continue in force two years longer, for fear of irritating and offending those, who by their votings for, and patronizing these bills, have already proved themselves to be enemies to our Constitution and our liberties. Away with reasoning of this kind! Intelligent freemen can not be deceived by it; they will discover that it is an electioneering trick intended to put them off their guard, and to induce them to trust their liberties in the hands of men, who, even if they are honest in their declarations, differ with them in opinion, as to the true meaning of some of the most important parts of our Constitution, and who from their own acknowledgments, must be bound in conscience, to vote for similar bills, whenever they shall judge it expedient to do so.

The private virtues of such men ought to be no inducement with the people to elect them, as they will cause them to persevere in opinions which the people consider as dangerous and destructive, and in those cases their superior talents, instead of being a public benefit, will only enable them to spread the poison contained in their opinions the more diffusively. A promise on the part of a representative to obey the instructions of his constituents, is no security to them, when they differ from him as to important political principles. Instructions must go to specified objects, but after they are obeyed, as to those objects, the obnoxious principle which was contained in them, may be thrown into another shape, and then the representative may consider himself as being at liberty to follow his own inclinations. If, therefore, the alien and sedition bills were repealed in consequence of instructions, and not because those who voted for their repeal thought them unconstitutional, the same principles might afterwards be approved of by the representatives in other bills, before their constituents would have an opportunity of instructing them, as to them also, and thus there would be an eternal war between the principles and acts of the representative, and the wishes and interests of his constituents. The only real security that can be given to the people, that their interest and principles will always be duly attended to by their representatives, must arise from their placing

that truth in no man who does not profess both an interest and principles similar to their own. All true patriots should unite in declaring these bills to be *political monsters*, and in demanding that they shall be put out of existence, as soon as it can be done constitutionally, and to prevent other bills of a similar nature from rising out of their ashes, they would vote for no man who will not, unequivocally declare, that Congress have no constitutional power to pass such bills, under any possible state of things.

But you declare that "you are satisfied with these laws, because they have been regularly enacted by a great majority of our rulers." You are certainly mistaken as to the fact of their having been passed by a great majority. These bills, as well as several other very important measures, were adopted by very small majorities, which circumstance alone, ought to have been sufficient, with moderate men, to have prevented their voting for them, because in a free country, radical changes, even if constitutional, ought not to be made but by general consent. As to the regularity of their passage, I have not inquired into it, but if they had no right to pass such acts, the observance of no forms in the passing of them, could make them constitutional when passed, the most wretched of all governments, is that, where the form of it is restrained, after the substance is lost.

You say "we hope to see a force raised sufficient

to keep peace at home, and awe all foreign powers." If I understand this properly, it amounts only to a wish to see a standing army, but also to have one of the largest size, because no other kind could possibly "awe all foreign powers." This then, is another improvement, which has lately been introduced into our political system. Our old patriots considered standing armies as the most powerful engines of arbitrary power, and the most dangerous enemies to republican governments; but our modern patriots have discovered that this was an error, and that a large standing army is a necessary ingredient in a good republican government although they sometimes inform us, also, that France has, within five years, lost her liberty by the means of one, and that she is now governed by a military despotism. I have read with emotion, the arguments which have been used in a hireling paper and by the tools of party in Congress, to prove the necessity of having a large standing army, to keep in awe free citizens of our republican government; because I despised them, as well as their arguments, but to see those arguments now repeated by the pen of a well informed patriot, makes me shudder. Look at the public declarations of '76, in which you concurred—see how different the sentiments they contain, are from what you now avow and then inform me of the cause of the change. It can not proceed from any apprehensions entertained of internal commotions upon the present

occasion, because you declare that, "the unanimity of the people of America is astonishing, and that Kentucky is the only discontented State in the Union." I beseech you, my friend, reconsider this subject, and do not put in the power of the friends of arbitrary power, to quote your opinion as an authority in favor of one of their most damnable doctrines.

"We have been repeatedly informed that it has been reported in the other States as well as here, that it is our wish to separate from the Union."

* * * * *

It has been currently reported and vehemently asserted, that those persons who in this State, declared their disapprobation of some of the measures of the general government, are actuated by a design to destroy the Constitution and the Union of the States. * * *

If I understand the nature of the charge, it is not founded on the supposition that "we have not understanding enough to enable us to comprehend what the real interests of our country is, but that we are wicked enough to wish to sacrifice that interest. What are the advantages which to national men, situated as we are, could be sufficient to compensate us for the Union, and the destruction which would certainly be brought upon ourselves, our country and posterity by the adoption of such a course?"

* * * * *

I have stated my opinion that it was false as

to others; so far as it concerns my myself, I know and declare it to be false. * * *

We are Americans, having no political objects in view but the welfare, liberty and independence of our country.

GEORGE NICHOLAS".

CHAPTER IV.

The foregoing letter, taken from a late paper, and the speeches of Col. Nichols quoted from the Virginia debates, were published and reported after his death, and were never revised by him. They, no doubt, contain errors of language, phraseology, etc., but they contain enough to show the character of the mind and heart that dictated them. Col. Nicholas died in the midst of the great contest indicated by this faint sketch of his efforts; but the triumph of his cause in the election of Mr. Jefferson, secured the fruits of his efforts to his country. The immediate effect of this triumph was the repeal of the alien and sedition laws, and the success of that great measure which will ever distinguish the administration of Jefferson; the acquisition of Louisiana.

The following extracts from the *Statesman's Manual*, convey a brief sketch of the early difficulties concerning, and the final acquisition of, that vast territory.

“The disputes with the Spanish, respecting the South-Western boundary line of the United States, and the right of navigating the Mississippi River, had often caused difficulties, between the people of the West and South-West, and the Spanish authorities and inhabitants of the

Spanish territories. These affairs assumed a new aspect, by the intelligence received in the United States, in the Spring of 1802, that Spain, by secret treaty, in October, 1800, had ceded Louisiana to France."

It thus appears that when Spain saw the certain success of the Republican party, she ceded the territory to France. Spain knew she could not hold it from the grasp of the Republican party, and availed herself of the first opportunity to cede it to a country that she supposed could and would hold it beyond the reach of the States.

"Mr. Jefferson had information of the cession of Louisiana to France in 1802, and wrote to Mr. Livingston, United States Minister to France, in April, 1802, giving his views on the subject. It was understood that the Floridas, either were included in the cession, or would be added to it, a supposition which proved to be incorrect. The views of the President as stated to Mr. Livingston, were, that if France took possession of New Orleans, the United States must become allies of Great Britain, and antagonists of France. He then suggests, however, that if France considers Louisiana as indispensable to her interests, she may still cede to the United States, the Island of New Orleans and the Floridas." * * "With a view of carrying his pacific policy into effect, he on the 10th of January, 1803, appointed James Monroe Minister Plenipotentiary to France,

to act with Mr. Livingston in the purchase of New Orleans and the Floridas. The nomination of Mr. Monroe was confirmed by the Senate, and Congress appropriated, at the request of Mr. Jefferson, two million dollars for the objects of the mission."

"Napoleon Bonaparte was then First Consul of France. He supposed, when informed of the instructions of Mr. Monroe and Livingston, that those ministers were authorized, if necessary, to enter into more extended stipulations in relation to the projected acquisition. Europe was then enjoying a momentary respite after the wars and revolutions she had undergone. But another war was about breaking out between France and England."

"The Marquis de Marbois was directed by Napoleon, to negotiate with the American ministers. 'Irresolution and deliberation' said the first Consul, 'are no longer in season. I renounce Louisiana. It is not only New Orleans that I will cede; it is the whole colony, without any reservation. I know the price of what I abandon, and I have sufficiently proved the importance that I attach to this province, since my first diplomatic act with Spain had for its object the recovery of it. I renounce it with the greatest regret. To attempt to retain it would be folly.'"

"Mr. Monroe arrived at Paris on the 12th of April, 1803, and did not hear without surprise, the first overtures that were frankly made by M. de Marbois. Instead of the cession of a town

and its inconsiderable territory, a vast portion of America was offered to the United States."

"Deliberation succeeded to astonishment. The two joint plenipotentiaries, without asking an opportunity for concerting measures out of the presence of the French negotiator, immediately entered on explanations, and the conferences rapidly succeeded one another."

"The treaty was concluded on the 30th of April, 1803, and the respective instruments which were drawn up in French and English, were signed by the three ministers, four days afterward. Two months had not then elapsed since Mr. Monroe had sailed from New York for France. As soon as they had signed the important papers the negotiators rose and shook hands, when Mr. Livingston, expressing the general satisfaction, said: 'We have lived long, but this is the noblest work of our whole lives. The treaty which we have just signed, has not been obtained by art, or dictated by force; equally advantageous to the two contracting parties, it will change vast solitudes into flourishing districts. From this day, the United States take their place among the powers of the first rank; the English lose all exclusive influence in the affairs of America.' The first Consul observed: 'This accession of territory strengthens forever, the power of the United States; and I have just given to England a maritime rival, that will, sooner or later, humble her pride.'"

“The area of country thus ceded, according to the claims of France, and the estimates of Mr. Jefferson, exceeded a million of square miles; but all but a small portion of it was occupied by savages. Its inhabitants were principally French and the descendants of French, with a few Spanish Creoles, Americans, English and Germans including about 40,000 slaves.”

“The American ministers, instead of merely purchasing New Orleans and the Floridas, as had been the first and main object of Mr. Jefferson, were able to effect a purchase of all Louisiana, equal in extent to the whole previous territory of the United States.”

In order to understand the influence of George Nicholas in producing these results, the great fact must be remembered that, when he commenced and had greatly advanced in his efforts against the principles and measures of the federal party, and of the Adams administration, there was comparative quiet out of Kentucky, throughout the Union, and a general acquiescence in regard to those principles and measures. The people had not been aroused to a sense of the dangers besetting their liberties, nor the loss of the great Mississippi Valley. Jefferson and Madison were comparatively quiet, and no one in the east had aroused the public mind. This fact is referred to in a spirit of triumph by the Virginia letter, to which the letter of Col. Nicholas is a reply, as follows: “The una-

nimity of the people of America is astonishing, and Kentucky is the only discontented State in the Union," with the Adams administration. When it is remembered that this declaration came from a patriot of the revolution, who had "devoted the prime of his life in the establishment of the liberty of his country and had shed his blood in its defence," it throws a flood of light upon this great question. This declaration and Mr. Jefferson's letter, corroborated as they have always been by faithful tradition, show the great truth, that Kentucky was the first State, and George Nicholas the great spirit that aroused the country, and gave the first great movement to the republican party which resulted, not only in the election of the immortal Jefferson and the consummation of his measures, but in thus giving that direction to American affairs which has been and must ever be her greatness, her glory, and her destiny.

The next great constitutional struggle, grew out of the nullifying acts of South Carolina.

In his reply to Col. Hayne, Mr. Webster expressed himself on that great occasion as follows:

"I understand the honorable gentleman from South Carolina to maintain that it is a right of the State legislatures to interfere, whenever, in their judgment, this government transcends its constitutional limits and to arrest the operation of its laws."

“I understand him to maintain this right as a right existing under the Constitution, not a right to overthrow it, on the ground of extreme necessity, such as would justify violent revolution.”

“I understand him to maintain an authority on the part of the States, thus to interfere for the purpose of correcting the exercise of power by the general government, of checking it and of compelling it to conform to their opinion of the extent of its power.”

“I understand him to maintain that the ultimate power of judging of the constitutional extent of its own authority, is not lodged exclusively in the Federal Government or any branches of it, but that, on the contrary, the State, may lawfully decide for themselves, and each State for itself, whether in a given case the act of the general government transcends its power.”

“I understand him to insist that, if the exigency of the case, in the opinion of any State government, require it, such State may, by its own sovereign authority annul an act of the general government, which it deems plainly and palpably unconstitutional.”

Mr. Hayne afterwards rose and said: “He did not contend for the mere right of revolution, but for the right of constitutional resistance. What he maintained was, that in case of a plain, palpable violation of the Constitution by the general government, a State may interpose, and that this interposition is constitutional.”

Mr. Webster resumed.

"So sir, I understand the gentleman, and am happy to find that I did not misunderstand him. What he contends for is, that it is constitutional to interpret the administration of the Constitution itself, in the hands of those who are chosen and sworn to administer it, by direct interference in form of law of the States, in virtue of their sovereign capacity. The inherent right in the people to reform their government I do not deny; and that they have another right, and that is to resist unconstitutional laws without overturning the government. It is no doctrine of mine that unconstitutional laws bind the people. *The great question is whose prerogative is it to decide on the unconstitutionality of the laws.* On that the main debate hinges. The proposition that in case of a supposed violation of the Constitution by Congress, the States have a constitutional right to interfere and annul the law of Congress, is the proposition of the gentleman, I do not admit it.

* * * * *

"This leads us to inquire into the origin of this government and the source of its power. Whose agent is it? Is it the creature of the State legislatures, or the creature of the people? If the government, then they may control it, provided they can agree in the manner of controlling it; if it is the agent of the people, then the people alone can control it, restrain it, modify and reform it. It is observable enough, that the doc-

trine for which the honorable gentleman contends leads him to the necessity of maintaining not only that this general government is the creature of the States, but that it is the creature of each of the States severally; so that each may assert the power for itself, of determining whether it acts within the limits of its authority. It is the servant of four and twenty masters of different wills and different purposes, and yet bound to obey all. This absurdity, (for it seems no less) arises from a misconception as to the origin of this government and its true character. It is, sir, the people's Constitution, the people's government; made for the people, made by the people, answerable to the people. The people of the United States have declared that this Constitution shall be the supreme law. * * * The national government possesses those powers which it can be shown the people have conferred on it, and no more. All the rest belongs to the State governments, or to the people themselves. So far as the people have restrained State sovereignty by the expression of their will, in the Constitution of the United States. So far, it must be admitted State sovereignty is effectually controlled. I do not contend that it is, or ought to be controlled further."

* * * * *

The people, then, sir, erected this government. They gave it a Constitution, and in that Constitution they have enumerated the powers they

bestow on it. They have made a limited government. They have defined its authority. They have restrained it to the exercise of such powers as are granted ; and all others they declare, are reserved to the State, or to the people. But, sir, they have not stopped here. If they had, they would have accomplished but half their work. No definition can be so clear as to avoid the possibility of a doubt ; no limitation so precise as to exclude all uncertainty. Who, then, shall construe this grant of the people ? Who shall interpret their will, where it may be supposed they have left it doubtful ? With whom do they leave this ultimate right of deciding on the powers of the government ? Sir, they have settled all this in the fullest manner. They have left it with the government in its appropriate branches. * * * * *

The people have wisely provided, in the Constitution itself, a proper, suitable mode and tribunal for settling questions of constitutional law. * * How has it accomplished this great and essential end ? By declaring, sir, that the Constitution and the laws of the United States, made in pursuance thereof, shall be the supreme law of the land, anything in the Constitution or laws of any State, to the contrary notwithstanding."

"This, sir, was the first great step. By this, the Supremacy of the Constitution and laws of the United States is declared. The people so will it. No State law is to be valid which comes

in conflict with the Constitution or any law of the United States. But who shall decide this question of interference? To whom lies the last appeal? This, sir, the Constitution itself, decides also, by declaring "that the judicial power shall extend to all cases arising under the Constitution and laws of the United States. These two provisions, sir, cover the whole ground. They are indeed the keystone of the arch. With these it is a government; without them it is a confederacy."

Notwithstanding this masterly illustration of the Constitution and nature of our government, early in 1830, to which the eyes and ears of the nation were most earnestly attracted, the legislature of South Carolina afterwards, in 1832, passed acts to nullify and resist certain laws of the United States.

"1st. An Act to carry into effect, in part, an ordinance to nullify certain acts of the Congress of the United States, purporting to be laws laying duties on the importation of foreign commodities, passed in convention of this State, at Columbia, on the 24th of November, 1832."

"The next is called an act to provide for the security and protection of the people of the State of South Carolina."

"This act provided, that if the government of the United States or any officer, shall, by the employment of naval or military force, attempt to coerce the State of South Carolina into

submission to the acts of Congress, declared by ordinance null and void, or to resist the enforcement of the ordinance, or of the laws in persuance thereof, or in case of any armed or forcible resistance thereto, the governor is authorized to resist the same, and to order into service whole or so much of the military force of the State, as he may deem necessary; and in case of any overt act or coercion or intention to committ the same, manifested by an unusual assemblage of naval or military forces in or near the State, or the occurrence of any circumstances indicating that armed force is about to be employed against the State, or in resistance to its laws, the governor is authorized to accept the services of such volunteers and call into service such portions of the military as may be required to meet the emergency." "This act also provides for accepting the service of volunteers and for the purchase of arms, ammunitiion."

The Act also made it the duty of the governor to call forth the militia and volunteers if necessary, and cause the laws of the State to be executed.

We here see that Union of States which had been united in the common cause of Independence, and had run together the most glorious career in history, carried by excitement and false doctrine to the verge of dissolution and war. We here see the people of the States, not only turning from the

glorious scenes and recollections of the past, but almost in the act of giving up the greatest earthly enjoyment of liberty and prosperity in the present, and the brightest prospects for the future, and rushing into all the horrors of civil war. But a Providence ever kind to this his favored land had given to the country the man for the times. Andrew Jackson, himself a Southern man, seemed to have been fitted, in every respect by nature, for the high purposes and achievements of the age and country in which he lived. Although accused of being a reckless man of war, determined to wield the tyrant's rod, his dauntless courage, his sometimes seemingly hasty acts, his ardent and impetuous nature, proved in every emergency to be guided by wisdom, and fully imbued with fraternal and patriotic affection.

He did not hastily and rudely attempt to crush out this threatened rebellion. Knowing the fearless courage, the high chivalry and the honest purpose of that excited and resisting State, he addressed her people as an affectionate father, determined to maintain that rightful authority indispensable to a proper government of the family of States. After setting forth the various, legislative acts of South Carolina, the President addressed Congress and the people of the United States in the spirit and manner exhibited by the following brief extracts from his message:

“By these various proceedings, therefore, the State of South Carolina, has forced the general

government, unavoidably, to decide the new and dangerous alternative of permitting a State to obstruct the execution of the law within its limits, or seeing it attempt to execute a threat of withdrawing from the Union. That portion of the people, at the present exercising the authority of the State, solemnly, assert their right to do either, and as solemnly announced their determination to do one or the other.

In my opinion both purposes are to be regarded as revolutionary in their character and tendency, and subversive of the supremacy of the laws and integrity of the Union. The result of each is the same; since a State in which, by a usurpation of power, the constitutional authority of the Federal Government is openly defied and set aside, wants only the form to be independent of the Union.

The right of the people of a single State to absolve themselves at will, and without the consent of the other States, from their most solemn obligations, and hazard the liberties and happiness of the millions composing this Union, can not be acknowledged. Such authority is believed to be utterly repugnant both to the principles upon which the general government is constituted, and to the objects which it was expressly formed to attain.

Against all acts which may be alledged to transcend the constitutional power of the government, or which may be inconvenient or oppressive in

their operation, the Constitution itself has prescribed the mode of redress. It is the acknowledged attribute of free institutions, that under them the empire of reason and law is substituted for the power of the sword. To no other source can appeals for supposed wrongs be made, consistently with the obligations of South Carolina; to no other can such appeals be made with safety at any time, and to their decision, when constitutionally pronounced, it becomes the duty, no less of the public authorities than of the people, in every case to yield a patriotic submission.

* * * * *

If the Federal Government exercise powers not warranted by the Constitution, and immediately affecting individuals, it will scarcely be denied that the proper remedy is a recourse to the judiciary. Such undoubtedly, is the remedy for those who deem the acts laying duties on imposts and providing for their collection to be constitutional."

* * * * *

"In closing this communication, I should do injustice to my own feelings not to express my confident reliance upon the disposition of each department of the government to perform its duty, and to co-operate in all measures necessary in the present emergency

The crisis undoubtedly invokes the fidelity of the patriot and the sagacity of the statesmen, not more in removing such portion of the public burthen as may be necessary, than in preserv-

ing the good order of society and in the maintenance of well regulated liberty. While a forbearing spirit may, and I trust will, be exercised toward the errors of our brethren in a particular quarter, duty to the rest of the Union demands that open and organized resistance to the laws should not be executed with impunity.

The rich inheritance bequeathed by our fathers has devolved upon us, the sacred obligation of preserving it by the same virtues which conducted them through the eventful scenes of the revolution, and ultimately crowned their struggles with the noblest model of civil institutions. They bequeathed to us a government of laws, and a Federal Union founded upon the great principle of popular representation. After a successful experiment of forty-four years, at a moment when the government and the Union are objects of the hopes of the friends of civil liberty throughout the world, and in the midst of public and individual prosperity unexampled in history, we are called upon to decide whether these laws possess any force, and that Union the means of self-preservation. The decision of this question by an enlightened and patriotic people, can not be doubtful. For myself, fellow citizens, devoutly relying upon that kind Providence who has hitherto watched over our destinies, and actuated by a profound reverence for those institutions, I have determined to spare no effort to discharge the duty which in

this conjecture is devolved upon me. That a similar spirit will actuate the representatives of the American people is not to be questioned; and I fervently pray that the great Ruler of nations may so guide our deliberations and our joint measures as that they may prove salutary examples, not only to the present but to future times; and solemnly proclaim that the Constitution and laws are supreme and the Union indissoluble.

ANDREW JACKSON."

The forbearance recommended by the President, and his immovable firmness of purpose in the last resort, but chiefly the truths proclaimed by him, produced an early and an easy solution of the dangerous question. His conduct upon this question must ever be regarded as among the most brilliant of his achievements. The masterly speech of Webster, and the irresistible messages of Jackson, won for each of them the fairest flower in that civic wreath with which fame will ever crown them; justice and gratitude unite their tribute to the memory of those who first proclaimed those truths and principles, which thus saved a country so dear to its people and so important to mankind. It has already been shown that George Nicholas was one of the foremost of those who first defined and proclaimed the doctrines and principles of the Constitution, thus reproduced

and applied by Webster and Jackson in this great crisis of their country; that he proclaimed them in the beginning—at the birth and in pleading for the adoption of that Constitution, they were thus called to defend and preserve.

He advocated its adoption as necessary to preserve America; he advocated its adoption as necessary to secure the Mississippi river; he declared its capacity to govern a vast extent of country; he declared the navigation of the Mississippi as one of the inalienable rights of the citizens of its valley; he announced the doctrine of a strict construction of the Constitution, confining the powers of Congress to those expressly delegated; he declared the judiciary to be the final peaceful arbiter of all disputes under the Constitution, laws or treaties of the Union; he aroused the young giant Kentucky, and thus Virginia and the whole Union against the alien and sedition laws in order to preserve the liberties of the people and promote emigration to the great Mississippi Valley; he thus announced rights, and commenced measures, that have made the Mississippi Valley the great heart, not only of the Union, but of the Continent herself; he thus early, before the great nineteenth century had dawned, defined and advocated those great principles of the Constitution, and great objects and measures of the government, with which the people of the Union have thus far, secured the great achievements and

persued the great mission of their country. Destiny seems to have assigned to every great man a mission to fulfill, but not to permit him to achieve more than one man's share. Jefferson won his immortality as the author of the declaration of Independence; righteous immortality to him whose genius conceived and whose pen proclaimed the Independence, the Union, the liberty and the destiny of his country. Madison won his by his conception of and his efforts in forming the Constitution of the Union. That Constitution will ever stand as the monument of his exalted mind, and his ardent devotion to his country. Although he did this, he was not the ablest exponent or defender of that Constitution as a whole after it was formed. Like the exhausted mother of her first born child, he was not so competent to understand its system, or to defend it from the assaults of enemies, as the learned and faithful friend in the freshness and vigor of manhood. To Nicholas destiny assigned such a position to the Constitution of his country. Greatness of intellect; a profound knowledge of law, of history, and of government; devotion to his country and fearless courage, united and made him a man to perform a great and leading part with his illustrious cotemporaries, in the consummation of the American revolution; in the adoption of the Constitution, and in giving that life and action to the new government

which have since crowned the history of our country as the most glorious in the annals of time, and secured a happiness to its people unknown to any other portion of the world.

CHAPTER V.

The second war with England was an important event to the United States. The conduct of Great Britain made it a measure of like importance to the honor and interest of the Union. While the injuries committed by her upon American citizens and American commerce, had aroused great indignation in the country, yet the declaration of war with England was a question of moment; a measure attended with great opposition and delay. From the time of her admission into the Union, Kentucky had filled an important space, and performed an important part in the politics of the Union. While John Brown, Judge Innis, John Breckenridge, George Nicholas, and other distinguished fathers of the State, had passed, not only from the political arena, but from the stage of life, their places were occupied by Joseph H. Davis, Jesse Bledsod, Isham Talbott, John Pope, John Rowan, Ben Hardin, William T. Barry, Thomas Metcalfe, Richard M. Johnson, William O. Butler, Henry Clay, and other distinguished patriots.

A glance at the times and the men of that period, is sufficient to recall the high position and great influence of Kentucky, in the measures and politics of the Union. Among these distinguished citizens, and at this period,

appeared Joseph H. Hawkins. Mr. Hawkins was a native of Powhattan County, Virginia, but was then a citizen and lawyer of Lexington. From his profession, he was called into politics by the stirring events preceding the war. When barely eligible, he was elected in 1810, by the county of Fayette, to the legislature of Kentucky. The following year, (1811) he was again returned a member. This was one of the most important sessions of Kentucky legislation. The question of war was still pending. In some portions of the Union, and in Congress, it was a question of most angry discussion. Under these circumstances, the action of Kentucky could not fail to exert an important influence over the sentiment of the country, and the fate of the measure. After the organization of the legislature of 1811, Mr. Hawkins was the author of the first resolutions of the session. They are here copied, to illustrate the character of their author, and the subject to which they relate:—

“Impressed with the belief that national feeling and gratitude, are the best security to the endurance of our republic, give life and energy to the body politic, and render us firm in our union and formidable to our enemies: that it is a country’s gratitude that compensates the soldier for his scars, perpetuates grateful recollections of his services, and induces the living to emulate the heroic deeds of the dead: that it is a country’s gratitude that softens the pangs of those left

to mourn husbands, fathers and friends, lost in avenging a country's wrongs: with a view to a proper expression of this gratitude,

“*Resolved by the General Assembly of Kentucky*, That the brave deeds of our soldiers in the late battle on the Wabash, deserve not encumbrances only, but, unfading fame in the hearts of their countrymen.

“*Resolved*, That the members of this body, and their officers, will, for the space of thirty days, wear crape on their left arms, in testimony of their deep regret for the loss of the brave and meritorious Col. Davis and Owen, and the other volunteers from Kentucky, who fell in battle; and as a tribute to their memory, that ——— dollars be appropriated to the erection (within the State House yard) of a plain, substantial monument of marble with appropriate inscriptions, etc.”—*House Journal*, 1811, p. 7.

With a small amendment, the preamble and resolutions passed, and the House appointed Mr. Hawkins to carry them to the Senate and request their concurrence.

On the 16th of December of the same session, Mr. Hawkins being their author, offered the preamble and resolutions on the all-absorbing question of war with England. Owing to their length, a full insertion of them here would carry this beyond the limits assigned to it; a portion only is, therefore, copied as follows:

“We could willingly have hailed a friend in a

former unnatural parent, and from the experience of her regard to principles of justice and reciprocal good offices, have ceased to recall those cruelties that alienated us forever, from her family. But when we have discovered a systematic course of injury from her towards our country, evidencing too clearly to be mistaken, an utter disregard of almost every principle of acknowledged right between independant nations; endeavoring by almost every act of violence on the high seas, on the coasts of foreign powers with whom we are in amity—and even in sight of our own harbors; by capturing and destroying our vessels; confiscating our property; forcibly imprisoning and torturing our fellow-citizens; condemning some to death; slaughtering others, by attacking our ships of war; impressing all she can lay her hands upon to man her vessels; inciting the savages to murder the inhabitants of our defenceless frontiers; we can be at no loss what course to pursue. Should we tamely submit, the world ought to despise us—we should despise ourselves—she herself would despise us! Wherefore,

“*Resolved*, That the citizens of Kentucky are ready to take the field when called upon: * *
That while they have undiminished confidence in the administration of the General Government of the United States, that, in their opinion the crisis calls for energetic measures.”—*House Journal*, 1811, *pages* 62-3-4.

The preamble and resolutions passed the House December 20th; and Mr. Hawkins was appointed to carry them to the Senate, and request their concurrence in the same.

On the 30th January, he offered the following resolution, which passed the next day:

“*Resolved*, That the Governor be, and is hereby requested, to make immediate application to the General Government, for the proportion of arms to which this State, is entitled, by virtue of an Act of Congress, passed April 10th, 1808.”

—*House Journal*, 1811, p. 198.

The importance of these steps by the legislature of Kentucky, is strikingly apparent, moving, as they did, in advance of the declaration of war, by Congress in 1812.

From the spirit and sentiments of these resolutions, the reader can form an opinion of the character of their *youthful* author. But the efforts of Mr. Hawkins in this session were no limited by these measures; the journal shows his prominence throughout the entire session, and his connection with every important act: That, in addition to the labors here indicated and others of a general nature, he was appointed to serve on more than twenty special or select committees. While the sentiments of the preamble and resolutions were being vindicated by the nation, the patriotic people of the county of Fayette, gave signal expression to their approbation of the course of Mr. Hawkins, by returning

him to the legislature; and the State did likewise, through their representatives, by unanimously electing him Speaker of the House, for the session of 1813. For this office he was nominated by Thomas Metcalfe, afterward distinguished as a member of Congress and Governor of Kentucky.

About the close of this war — this second struggle for American independence — its great advocate in the halls of the nation, was appointed one of three ministers to repair to Europe, for the purpose of treating with the enemy. In order to be understood, it were scarcely necessary to state that the appointment here referred to, was that of Henry Clay; his countrymen, in response to his voice of thrilling eloquence, to his burning words of patriotism on the one hand, and his withering, blighting denunciation on the other, however they may have divided in opinion on his subsequent course, then rushed to deeds of daring on the battle field, and yet proclaim him then the matchless advocate of his country's cause.

Mr. Clay's departure on this mission to Europe, made a vacancy in Congress which, it was necessary for the people of his district to fill. This they did by electing Joseph H. Hawkins, who was nearly ten years the junior of Mr. Clay, a member of that body. The journal of that Congress not being before the writer, he can not state the part he took in its proceedings. The fact only of his election is referred to, as show-

ing the approval by his fellow-citizens, of his past efforts, and the estimate they placed on his talents and patriotism. Before the expiration of his term in Congress, peace was restored to the country. Retiring at the close of the term from political life, he engaged in professional and business pursuits. But justice to his memory, as well as to history, requires a statement of his subsequent efforts for his country.

The colonization of Texas must ever be regarded as one of the most important events in American history. Considering the time, the circumstances attending it, and the consequences that have followed and will ever follow it, it ranks with the great events in history. The achievement of her independence; her admission into the great Union of States; the Mexican war with its immortal deeds of valor and its invaluable conquest of soil and of gold; the extension of the Union from the Sabine to the Rio Grande and from the Gulf to the Pacific, are some of its past results, while those yet to follow, must ever be of the first importance and inseparably connected with the destiny of our country. A faithful sketch of the origin of these events and results, can not fail to interest every patriotic inquirer for the truth of history. Several histories of Texas have been written, but this sketch will differ widely from all of them on the subject of the establishment of the first colony. Preferring the narrative to the contro-

versial method, the writer will present facts without reference to the difference, leaving the reader to judge for himself.

While residing in Lexington in 1807, Joseph H. Hawkins met with a youth from Missouri. Mr. Hawkins invited him to his house; the invitation was accepted and from this home he went to one of the schools of the city.

In reference to the relations thus established, a distinguished cotemporary of the parties observes, in a note on the subject to the writer: "the kindness Mr. and Mrs. Hawkins extended to Stephen F. Austin, while he lived in their family, was followed by enduring friendship between the parties."

Moses Austin, the father of Stephen F., then residing in the wilds of Missouri, at "Mine A. Burton," afterwards came to the city with his family, and he, too, found a friend in the person of this friend to his son. About the year 1809, the Austins returned to Missouri. In the year 1819, Mr. Hawkins removed to the city of New Orleans. There he afterwards met again with Stephen F. Austin. The result of this renewal of their acquaintance, was the undertaking, by Mr. Hawkins and Moses Austin, to colonize Texas, then a province of Spain, and a distant country, inhabited only by the sons of the forest.

In pursuit of this object, Moses Austin made a contract with the Spanish official for the

establishment of a colony of three hundred families in Texas. But before any further steps were taken in the matter, this daring and patriotic adventure was defeated by his death. Soon after this event, his son, Stephen F., upon application was substituted for his father. But this done, it was a colony on paper only. In the hands of a young man, unknown to the public, wholly without means or sufficient emigrants, it would have remained forever, to Stephen F. Austin and to the country, a colony on paper, had he not received the all important aid of his early friend, Joseph H. Hawkins. While young Austin possessed all the requisite qualities and qualifications to carry out such an adventure, neither time nor circumstances had yet given him the position or the means to do so. To enlist a colony of three hundred families in the United States, and send them to the distant and hazardous country of Texas, at that day, must have been the work, to an important extent, of a tried man, in every sense, of high position in the public confidence. Such was the position and such the assistance of Joseph H. Hawkins. The Austins made the arrangements with the Spanish officials for the establishment of the colony; Joseph H. Hawkins sent nearly the whole of that colony to Texas. It was the first colony or settlement of Americans ever established in the country.

This brief statement of facts differs so widely

from all previous history, that it is due to the subject to appeal to the proof.

This will introduce the reader to an important paper. Important because it is the only paper that contains a true description—true and faithful evidence of the beginning of a series of important events. It has been preserved by the wife and daughter of Mr. Hawkins, but has never been published. It was written by Mr. Hawkins, and is now in possession of the author. It is not the paper, the writing, but the consequences that have followed the enterprize set forth by it, that constitute its importance.

Contract between Joseph H. Hawkins and Stephen F. Austin for Colonizing Texas.

“Articles of agreement made and concluded this fourteenth of November, 1821, between Stephen F. Austin and Joseph H. Hawkins of New Orleans, witnesseth: That whereas a contract was heretofore entered into between the parties hereto, the said Austin acting for and on behalf of his father, Moses Austin, and in virtue of an authority from him, whereby the said Moses Austin by his agent and son, covenanted and agreed to sell, and did sell to Joseph H. Hawkins one equal half part of all lands granted by the Spanish government to said Moses Austin in the province of Texas, together with one equal half part of all town lots, emol-

uments, profits, monies, or effects derivable from the settlement and sale of lands and lots, so agreed to be settled by said Moses Austin; and whereas, since the Spanish government in Texas have confirmed to said S. F. Austin, the grant of lands originally contemplated to be granted to his father, the said Stephen F., having resolved to effect the settlement and carry the grant into execution upon the same principles stipulated and agreed to by his said deceased father, and whereas, the consideration to be paid by said Hawkins, to said Moses Austin, was the advance of monies necessary to defray the expenses incurred in obtaining said grant, and which have already been advanced by said Hawkins: now the parties hereto covenant and agree as follows: the said S. F. Austin hereby acknowledges to have received from said Hawkins the sum of four thousand dollars, in full of all monies to be advanced by him under this contract, or the contract before referred to, made by said S. F. Austin, under the direction and authority of and for his father as aforesaid; and for and in consideration of the said sum of four thousand dollars so paid by said Hawkins, the said S. F. Austin, doth hereby for himself and the other legal representatives of his said father, covenant and agree, that after making the necessary survey, the said Hawkins shall be entitled to and receive one equal half part of the monies,

effects, property and profits arising from the sale of lands, lots, or from any other source growing out of the grant of lands before referred to or the settlement thereof. And all lands, lots, and other property so derived, shall be from time to time divided between said parties hereto in equal moities; and it is further agreed by and between the parties hereto, that a joint and equal co-partnery is established between said S. F. Austin and said Hawkins, in all matters and concerns touching the lands to be granted to them or either of them, touching the emoluments or profits derivable from said grant of lands, or the sale and settlement thereof, and all other purposes and objects in which they may embark in said province of Texas; the said Austin furthermore covenants and agrees to cause as many individuals grants of lands to be made to the said Hawkins and himself, and such persons as they may name, as can be obtained from the proper legal authority in said province of Texas. And in all lands granted to said Austin, either party is at liberty to consider himself a joint owner should he elect so to do. In embarking in objects requiring disbursements of monies or monied responsibilities, it must be done by joint and mutual consent.

Witness our hand and seals this 14th day of November, 1821.

STEPHEN F. AUSTIN.
JOSEPH H. HAWKINS.

Soon after this Mr. Hawkins, declared in a letter to a friend his intention to remove to Texas and make her his home.

"New Orleans, Feb., 28th, 1822.

* * * * * I do not hesitate to declare, that if my expectations are realized I shall not long be a resident of this city. Texas will be my home.

JOS. H. HAWKINS."

The following, from the published letters of W. B. Dewees, contain his statement in reference to the establishment of the first colony. Being one of the first emigrants and having no known motive to falsify the truth, his statement so far as he is considered reliable:

LETTER 3.

"Pecan Point, Ark., June 10th, 1821.

DEAR FRIEND:— * * * *

During my stay in Nacogdoches, I learned that Mr. Moses Austin of Missouri, had received permission from the Mexican government to establish a colony in the State of Coahila and Texas. We then made immediate preparations to return to this place, having determined to join Austin in the enterprise. * * *

W. B. D."

LETTER 4.

"Brazos River, Coahila and Texas, }
July 16th, 1822. }

DEAR FRIEND:—After a long and toilsome journey, I arrived at this point from Red River in Company with three or four families from that country, on the first of January last.

* * * * *

On arriving at the Brazos we found two families Garrett and Hibblings, who had got there a few days before us, and were engaged in erecting cabins. * * W. B. D."

The following is also taken from his compilation of letters published in 1854.

"San Antonio, Feb. 2d, 1829.

DEAR FRIEND:—You requested me in your last letter to give the names of the different emprisarios of Texas, and a history of the settlement of the colonies of Texas, by the different emprisarios, as also the location. Were I to give you a full account of it, the subject might prove tedious to you, but the brief outline which I shall take great pleasure in sending you will, I trust, prove not only interesting but instructive."

"In January, 1821, Moses Austin, of Missouri, received permission from the Supreme government of the internal provinces of New Spain, to introduce a colony of three hundred families in the province of Texas. Before any steps

had been taken to establish the colony Austin died."

"His son, Stephen F. immediately took up the enterprise; he proceeded to Texas where he arranged the preliminaries with the Spanish authorities, and was commissioned by the government to take charge of the local government of the new settlement until it could be otherwise arranged."

"In December, 1821, he arrived at the Brazos with the first emigrants, and settled at the old La Bahia crossing."

"During the interval between the day of his permission and the time of his arrival, Mexico had shaken off the Spanish dominion, and it became necessary for him to proceed forthwith to Mexico."

* * * * *

"In August, 1823, Col. Austin arrived at the Colony accompanied by the Baron De Bastrop, who had been appointed by the Governor of Texas, Commissioner on the part of the government, to survey the lands for the settlers, and in union with Austin, issue titles to each, in the name of the government."

W. B. D.

* * * * *

The next statement is from another of the original colonists. It was made in response to the following interrogatories addressed to her by the author of this book.

Lexington, Ky., June 23d, 1855.

TO MRS. ANGELINA B. EBERLY:—Will you please state whether or not you emigrated to Texas at an early day; if so, when, with whom, and how you went there. State whether or not you were one of the first families that settled in Texas. If so, please state the circumstances that came under your personal observation and knowledge, concerning the establishment of that colony, and what you learned from the emigrants and others connected with the colony.

Respectfully,

WM. B. VICTOR.

“TO W. B. VICTOR:—Your inquiries above, I will answer. In the Spring of 1822, my husband and myself went to New Orleans for the purpose of locating there, or of emigrating to Cuba. Shortly after our arrival in New Orleans, we were informed that a colony was being established in Texas. The country was represented as being a very fine one, the inducements to emigrants great, and we concluded to go there. We were informed that a short time before, a vessel had been sent with the first emigrants, by Joseph H. Hawkins, who then lived in New Orleans; that the vessel had been wrecked on the voyage, and that Mr. Hawkins had sent a vessel called the “Only Son” in search of the wrecked vessel and emigrants.

The “Only Son” returned from the search,

and I, with about one hundred and fifty emigrants, departed from New Orleans on the "Only Son" for Texas, on the first of June, 1822. When we were near starting, and also while on the vessel, before leaving, we were informed that Joseph H. Hawkins had, by great efforts and persuasion, chartered the ship, for this voyage to Texas. I saw Joseph H. Hawkins receiving many of the emigrants on board the vessel, giving directions in relation to, and receiving supplies and stores for the emigrants, and controlling the preparations for the departure of the vessel. I was told by the Captain of the "Only Son," that he had been employed by Mr. Hawkins to search for the vessel first sent out, that was wrecked, and that Mr. Hawkins had sent supplies to the suffering emigrants that were on her; that the Captain of the "Only Son" had found the emigrants near the mouth of the Colorado in great distress and destitution.

The Captain also told me that he did not want to make the trip which carried us over, but had been induced to do so by Mr. Hawkins. Some of the emigrants were able to pay their passage, but a great many were not, being without money. It was known, and often talked of among the emigrants, that Mr. Hawkins paid the passage, by chartering the vessel, of all those who had no money, and also furnished them with supplies.

About the time of the departure of the "Only Son" from New Orleans on this voyage, Mr.

Hawkins started another vessel to Texas, which was the third one sent with emigrants and supplies. We arrived in Texas at the Colorado landing on the 18th of June, 1822. When we arrived there, the other vessel, started by Mr. Hawkins about the same time ours started, had already arrived before us. We also found at the old Colorado landing, the surviving emigrants of the first vessel that was wrecked. Several of them had perished and some had wandered off. They told us their vessel had been wrecked on the Texas coast, and they had been piloted by the Indians to the old Colorado landing, or a good portion of the way. After our arrival we had soon to separate, to some extent, to raise corn, build cabins, and perform the necessary labors, in a new country, to make a living. We were often annoyed by robbers and Indians. Our situation was one of privation and uncertainty. Stephen F. Austin was in Mexico, where he had gone to complete the grant of lands for the emigrants, and we yet had no certainty that the promised grant would be complied with. This was the first colony ever established in Texas, and is commonly called Austin's colony.

Mr. Austin remained in Mexico until in 1823. The emigrants or colony had not seen him. He had gone in the Fall or Winter of 1821, from Missouri, by land, with some fifteen others, to San Antonio, and from there he went to Mexico. He was not in New Orleans when Mr. Hawkins

sent any of the vessels and emigrants to Texas. During Mr. Austin's stay in Mexico, Mr. Hawkins sent supplies and farming implements to the colony. There was but one feeling and opinion among the emigrants and colony for Joseph H. Hawkins; that was the highest estimation and warmest gratitude for his kindness and his efforts in their behalf.

Soon after Mr. Austin returned from Mexico to Texas, he located the town of San Philippe, and established a land office there. He then surveyed and located other towns, and laid off to the emigrants, the land they were entitled to under the colonization contract.

Mr. Austin afterwards obtained grants for other emigrants, and devoted himself to the settlement and improvement of the country until his death.

The colonies entertained for him feelings of the warmest esteem and gratitude.

Before obtaining the lands from Mexico, he was very poor, indeed had nothing at the time and before the colony went to Texas; but by his success in this colony he made and left a large fortune.

A. B. EBERLY."

STATE OF KENTUCKY, }
Fayette County, to wit: }

I Benj. F. Graves, a commissioner for the State of Texas, residing in the city of Lexington Kentucky, do hereby certify, that Mrs. A. B. Eberly, personally appeared before me, and

signed, and acknowledged the foregoing instrument of writing. I further certify that said instrument, was read over to said A. B. Eberly, and she did declare that the matters and things stated therein were true.

Given under my hand this 26th day of June, A. D., 1855.

BENJ. F. GRAVES.

Commissioner for Texas in Kentucky.

The foregoing statement is no doubt true; corroborated as the facts are, by numerous contemporaries, and by the acts of Mr. Austin himself, these facts may be placed upon the tablet of truthful history. She had no motive or inducement to make any but a truthful statement. Her well known independence and fearlessness, would naturally prompt her to scorn the slightest coloring of the facts, while her clear head and strong mind make her statement doubly reliable. This is her character. Her statement illustrates the previous history, of the movements of Mr. Austin in the beginning of the colony, and shows the part performed by Mr. Hawkins, at the same time, to wit: That Mr. Austin went by land in the fall of 1821 to Texas with a few emigrants: about fifteen in number; That he then went first to San Antonio and thence to Mexico; that he remained in Mexico until his return to the colony in August, 1823; that during this time in the Spring

of 1822, Mr. Hawkins sent the colony of three hundred families with provisions to Texas, and afterwards sent implements and supplies to assist in sustaining them. The important part thus performed by Mr. Hawkins in establishing the first colony in Texas, was extensively known at the time in New Orleans and was deeply appreciated by the colony. It is therefore one of the extraordinary omissions in the Texas drama, that all history previous to this time, should have given the fame so justly belonging to him, wholly to others. The injustice of this, will be more fully felt by the reader, when he shall have learned something of the sacrifices which this colony cost Mr. Hawkins and those nearest and dearest to him.

In letters written contemporaneously with the beginning and progress of this colony, Mr. Hawkins wrote as follows.

The letters from which the extracts are taken are in possession of the author.

New Orleans, July 26th, 1821.

MY DEAR SIR:

* * * * *

I have long wished to say something as to your removal from Kentucky. The unhealthfulness to which we are subject here forbids your coming to this city. I do not see your way at Pensacola as yet. Time may present something here. After every inquiry I believe Texas,

which Mr. Monroe gave to Spain for nothing, is the finest spot in North America, taking soil, climate, air, water and products altogether. I am interested in a large grant of land there. Should it turn out according to my expectations we shall all have a home.

On my return from Mobile I will write you fully and enclose you the plan of our colony, description of the country, &c., &c. * *

JOSEPH H. HAWKINS.

He wrote :

New Orleans, Sept. 21st, 1821.

MY DEAR SIR:

* * * * *

If the accounts we have received be correct, and there seems to be no difference of opinion, the province of Texas is the best spot for your enterprise and favorite pursuits, perhaps in the world. I am extremely anxious for you to see that country. I send you by this days mail a paper containing Mr. Austin's publication. I have a right to one half this grant and all the benefits resulting from it.

I have not seen the exact boundaries, but as they have been communicated they are as follows :

Beginning at and including Matagorda harbor, the landing of Lasalle, and running up the river Gaudaloupe to what is called the Labadue trace, thence along that trace to the Colorado river, &c., &c. * * *

The lands are rich, part wood land well watered, susceptible of growing sugar, cotton, tobacco, corn, rice, the tropical fruits, and I presume the vine; the country abounding in sheep, wild horses, cattle and mules, and certainly a healthful clime. Is not the country worth visiting, &c., &c? * * *

Shall the *temporary rule of a Spanish Governor prevent us from doing so?*

JOSEPH H. HAWKINS."

Again, in urging his friends to prepare for their removal to Texas, he wrote:

"Let us move where the means of living will be cheap, where the theatre of usefulness would be extended, and where our children would share the advantages of their parents having shared in the difficulties of settlement, and the labors necessary to the maturity of institutions promotive of general happiness. Go, in fine, where both ourselves and children will have room and feel that they are adding to their own dignity, and the happiness of their parents.

* * * * *

JOSEPH H. HAWKINS."

It is worthy of consideration, that the objects Mr. Hawkins had in view, in reference to Texas, were to regain a territory that had been conveyed away; to make that country the home of himself and such friends as he could induce to join him;

and to aid in maturing institutions promotive of general happiness. It is also worthy of consideration, that Texas, as a part of Louisiana, had been obtained by the Republican party, and had been ceded to Spain by Mr. Monroe, under the influence of the old opposition to Louisiana.

The efforts and money expended in behalf of this colony, made it necessary for Mr. Hawkins to exert the powers of his mind and body to their utmost tension, to support his family, and accomplish his objects. During this period, he wrote to his friend as follows:

"You would scarcely recognize me as the same man when we parted. My cares and labors have so worn me out, that both my mind and body are thread-bare. I mention this that you may not deem me callous to the recollections and emotions which will always endear you to me."

In another letter, he wrote in reply to his friend:

"My anchorage you say is on the bed of death. It is even so, and I have looked on until I have become familiarized with it. Awful indeed has been the desolation around me. To presume that I alone am to be exempt, would be to presume against the will of heaven. Three of my family (a young man teaching French, and Jonathan and Jack) are already gone. I owe my life at present, to timely and powerful medicines, and leaving town for the sea-shore. The storm has gone by, and like the mariner

who escaped from wreck, I cling the closer to the barque, to which I owe my safety. As to constitution, I feel it daily giving ground."

"I look back upon Kentucky with the melancholy feelings which a retrospect of the scenes of infancy and the early attachments of life, always excite. I sometimes censure myself for having left you; at others the flattering hopes of a temperament always too sanguine, encourage me to toil on and hope for the better."

A short time before his death, he again wrote to his friend:

"I should have visited Kentucky, if circumstances had permitted, this summer. But my life resembles little else than the convulsive struggles of an expiring lamp. * * * I wish you very much to see Texas. If I could be located there with you, it might prevent a removal beyond this."

Again he says:

"My life has been a forced one for several years. Having many causes for marked and distinct feelings, yet each day obtrudes on, and wears out, its predecessor. The resolves of the night are effaced by new occurrences of the morning, and the fatigues of the day, leave but little for mental or bodily effort at night."

As the consequence of an effort which has resulted so greatly for the good of his country, the writer supposes that the facts disclosed by the letters of Mr. Hawkins, will find a genuine

sympathy in every true and patriotic heart. He also supposes that something more of the character of a man who thus served the great cause of civilization, and the extension of Republican liberty, will be properly and kindly received.

His early acquaintance with the Austins in Lexington; the residence of Mr. Hawkins in New Orleans; their achievement of the colony, and his early melancholy death, seem to have been a destiny, than which there was no other for him. Of this, his letters disclose a wonderful presentiment, at times a corresponding despondency, but ever the heroic struggles of a true heart and a noble spirit in pursuit of its cherished objects.

We again quote his letters from New Orleans:

“Is it not time to deem ourselves peculiarly subject to the chastening rod of Providence? Does it not naturally lead us to look beyond the grave for the only fruition of promises deferred, of hope bereft! Can it be possible that the nothingness of this life, limits our intellectual immortality! Why has God endowed us with the faculty of looking and hoping for more? Shall those powers whose range has yet found no limits, find their end in the feeble frame that bears them? If so, there remains but little inducement for all our toils and struggles here.
* * * But my attachment and predilections for a few objects near and dear to the heart,

and for occupations hitherto without interest, increases, as former and other feelings give way,
* * * The dear pledges and objects of affection—the wives and children of our bosoms cling the closer, and are prized the higher, as the period of final separation approaches.”

On the same subject he writes again :

“Your friend seems greatly distressed, judging from the painful necessity he feels under, of joining the church, to get on in the world. Woe be to him who shall kneel at the foot of the cross of an insulted Savior, shielding the political strifes of this world, with pretended piety towards God ! Blessed are they, who with pure and contrite hearts, mingle at the altar of the Redeemer’s blood, tears of penitence, and prayers for forgiveness.”

After seeing the reflection of such a pure and noble soul, it is not at all surprising that he who possessed it, should have been employed by a wise Providence, to aid in laying the foundation of an empire of civilization and religion, to endure forever.

His colony was established ; his mission was fulfilled ; in his own soul he had felt, and from his own hand came the precursor of the event next announced by one of his nearest friends :

“*New Orleans, Oct. 11th, 1823.*

MY DEAR SIR:—All our plans and prospects are at last blasted by the death of Mr. Hawkins.

Having been called to Bayou Sara on business, the latter part of last month, when I returned on the 2d inst., the first communication, on landing, without any previous indication of his illness, was the dreadful news of our irreparable loss. I immediately got a small schooner bound for Madisonville, to see and learn the pleasure of Mrs. Hawkins under such an affliction. Her determination is to return to Kentucky. * * *

NATH. COX."

Owing to his feeble condition of health, Mr. Hawkins had gone to the more healthful shores of Lake Ponchartrain. While there the suffering mariners of a vessel in danger, or wrecked near by, called for assistance. He exerted himself in their relief, until exhaustion compelled him to cease. He returned to his family, but the cold grasp of death had fastened upon him. In a few days he was a corpse.

Thus at the age of thirty-seven years ended the life of Joseph H. Hawkins! Ever devoted to the cause of humanity, how melancholy it is to see his efforts in her behalf thus end his career. Thus take him from his devoted companion, and leave all desolate and heart-broken with five helpless children. Sad as it is the scene is not relieved by the subsequent fate of that stricken family. Mrs. Hawkins returned to her native city;—to the scenes of her

infancy, girlhood, and marriage; she was the daughter of Col. George Nicholas and bore his name, George Ann; she received every attention of sympathy and affection, but all failed to save her; the death stroke of her husband, gave her a wound that would receive no balm of relief, until the heart it had pierced ceased forever to beat.

The following letters contain further proof that Texas cost Mr. Hawkins his all; his estate and his life.

"New Orleans, April 26th, 1823.

MY DEAR SIR:

* * * * *

For my friend, Mr. Hawkins, I wish that I could say all that I desire. As a man, a friend and neighbor, I am happy in the extreme, in saying how dearly he is appreciated by us; but the Austin grant in Texas has kept him poor, and will continue so to do, I apprehend, for years to come. I have no doubt he has made at least twenty thousand dollars by the practice of his profession since he came to New Orleans, and the whole of it is gone. I hope, however, that he is determined to make no more advances. In that case his circumstances will soon be easy, for his practice is very considerable.

* * * * *

NATH. COX."

He wrote again soon afterwards :

“ *New Orleans, Dec. 5th, 1823.*

DEAR SIR :

I wrote you a few days since, after the death of Mr. Hawkins, but it could not have reached you at the date of your esteemed favor of the 3rd ult., only just now at hand. I do not recollect the contents of my former letter, and not having had the pleasure, (for such it would have been, though a melancholy one,) of seeing Mr. Hawkins in his late illness, I can not go into details for since the fatal event, I have never felt bold enough to speak on the subject to his disconsolate widow.

* * * * *

How happy I should be, if in a few years, the interest in the province which has cost us so many *pangs*, should turn out a fortune for her and her children, and this is far from being unlikely. The grant from the best information I can obtain, consists of a very large portion of the very best sugar and cotton lands, a fine stock country, and possesses many other qualities to make it desirable. Such a country must be settled in time, and I hope, long before Mrs. Hawkins has lost her relish of life, and that in the end, she may have the satisfaction of seeing her children well provided for. This wish and solicitude is due to the exertions and deprivations of her lamented husband.

NATH. COX.”

The next letter from Mr. Cox states facts that have hitherto been known to comparatively few; certainly not by the great majority of the people of Texas, or their course in some respects would have been different, in relation to the memory and family of one of her fathers and benefactors:

“New Orleans, Feb. 12th, 1824.

DEAR SIR:

I have just copied for Mrs. Hawkins the contract between her deceased husband and Stephen F. Austin for your inspection. The original I think it best to retain here, subject to your future views and instructions. I also retain all Austin's letters in case he should doubt the propriety of the large sums advanced by Mr. Hawkins for the purchase of vessels, goods, &c., &c. These letters are full of authority for the purchases, in addition to which I have a late one from him ordering goods to the amount of ten thousand dollars. In a former letter to you, I mentioned that Mr. Hawkins had made very considerable advances towards the province, but until a thorough examination of the papers I had not the remotest idea of the amount so squandered. I have just made up the amount to forward to Austin, by the first opportunity, which amounts including interest to upwards of thirty thousand dollars. I shall write to Mr. Austin on the subject fully and freely; and if

he has either gratitude or justice in his composition, he will do something for the relief of Mrs. Hawkins and her children. * *

To Mrs. Hawkins I shall be able to give little more than will take her to Lexington. * *

The house and lot and all the negroes are mortgaged to Gen. Wilkinson, for the four thousand dollars obtained from him to advance Austin.

NATH. COX."

"New Orleans, June 5th, 1824.

DEAR SIR:

The affairs of Mrs. Hawkins may require that an agent be sent to the province of Texas next winter. The situation will I presume be left to you and Mr. H. A letter which will accompany this, from Mr. Austin to Mrs. Hawkins, will set forth more particularly than I can do the duties to be performed by the agent.

* * * * *

Austin's letters to me breathe nothing but the best of feelings for Mrs. Hawkins and her family. This is expected at his hands for the many favors granted him, to the entire sacrifice of her husband's fortune and his life—for if he had never seen Austin, he would this day be at the head of the New Orleans bar.

NATH. COX."

"New Orleans, May 19th, 1825.

DEAR SIR:

I find with great pleasure, that many reputable

persons are looking out for passage to Austin's grant in the province of Texas. I hope therefore yet to see the day, and that not far distant, when Mrs. Hawkins can feel herself independent from the same source which caused her so much misery, for to that grant and that alone, I must attribute the death of her lamented husband. The advances made to Austin had such an effect upon him that he could not sustain it.

* * * * *

NATH. COX."

The destroying effect upon Mr. Hawkins referred to, was the result of the heavy embarrassments in which he thus placed himself for his country. He mortgaged the home of himself and family, the servants that nursed the helpless children and delicate companion of his bosom, for a distant land and people. The anxieties and labors thus brought upon him, in the debilitating climate of New Orleans, exhausted and prepared him for a premature grave. Having a spirit of the loftiest pride, and sensibilities of the keenest nature, he labored intensely and incessantly to establish his colony, to meet the engagements the effort had brought upon him, and at the same time to support the expensive style of life indispensable to the habits of his family, and his position in New Orleans society. In these efforts and distress he threw himself and the family so dear to him, upon the provi-

dence of the God he worshipped, and with a heroic spirit struggling with adversity, he never ceased to struggle for the prize of his calling. Nothing but the consciousness of a high purpose could have sustained him so long or so well. None could have felt more keenly or deeply than himself his personal sacrifices, but none knew or believed so fully as himself, that his loss would be his country's gain; the brilliant eye of his mind and the strong emotions of his soul, saw and felt that he was engaged in a work for millions and for all time to come.

The establishment of the first colony, and the large advances made by Mr. Hawkins, enabled Mr. Austin to go on and establish other colonies. In 1825 he petitioned for permission to colonize five hundred families. The proposition was accepted, and the families were colonized in the limits of the first colony. In 1827, Mr. Austin made another contract for the settlement of one hundred families. In 1828, he contracted to settle another colony of three hundred families. The success of the first colony, and the means advanced by Mr. Hawkins, directed emigration to Texas, gave confidence in her success and enabled Mr. Austin to establish these additional colonies, as pay for which he received large grants of lands for himself. Thus it is clear that Mr. Austin owed his success, his fortune and his fame, in a great measure, to the kindness, the efforts and

the means of Joseph H. Hawkins. Without them the whole scheme would have been a failure. Not only that, but the whole subsequent history and destiny of Texas would have been different. If you tear away the foundation of any building, the whole superstructure falls to the ground. All things earthly have had a beginning, and that beginning can not be supplied by any other supposed similarity of subsequent events or beginnings.

The rise and progress of nations are like the life of man; born at a particular time, nursed and schooled under a particular combination of ever-changing circumstances; thus arriving at manhood, he must and does act through life according to these great controlling circumstances of his destiny. If the beginning in point of time only be changed, that brings the man or nation into life and action under circumstances, which might and most probably would have produced different results. While this is true in philosophy, while it is known by the experience and observation of every man to be true, it is not less important than true in the colonization and subsequent history of Texas. When the application was made to Spain for permission to establish the first colony, the prejudices of the Spaniards against the people of the United States, would have defeated the project but for the circumstance that Mexico, long discontented with foreign rule, was about to declare her independence. The Spanish

authorities then supposed that by interesting and making dependant upon her the colonies proposed, she would strengthen her position in the north. While the establishment of the colony was progressing, Mexico declared her independence, and for the same reason she confirmed the first grant, and continued the same policy. Had the first colony failed or been delayed a few years, the subsequent history of the country between the Gulf and the Pacific would have been different. Her growth, her independence, her annexation to the Union, the war with its priceless trophies, have all grown from this origin, and depended from time to time, upon the very coincidences of political events and parties, that have produced the very results that have followed.

While such were the brilliant results of the first colony to Mr. Austin, and to the country, the consequences to Mr. Hawkins and his family must not be forgotten. His noble soul panted for them, yet it was never the destiny of Joseph H. Hawkins to behold the growth, or taste any of the fruits of his planting, or even to see the beautiful land thus redeemed and bequeathed to his country.

Nor was it the fortune of his endeared wife ever to receive any aid or benefit from it. The best excuse that can be offered for Mr. Austin is, if true, that he applied all the means at his command to the cause of the colonies and the country.

Nor is this all. The orphans sought a home in the country thus reclaimed by their father and friends, but their fate too, is a story of deepest sorrow. The fate of one of them, Norbourne B. Hawkins, (named for the friend of his great grand-father, Norbourne Bottetourt,) exhibits conduct, alike cruel—horrible in the enemy and noble in himself. A delicate youth of only sixteen summers, with the rifle he had born from his native land, he joined, and marched with the lamented Fannin, in defence of Texas, his adopted home. The fate of Col. Fannin and his companions in arms, is one of the most horrible in the history of wars! After surrendering under the most solemn stipulations that they would be treated with all the kindness due to prisoners, three hundred and thirty were shockingly murdered! The following extracts from Professor Yoakum's late history of Texas, convey a faint idea of the horrible scene.

“Col. Fannin had surrendered on the 20th of March, 1836. After the surrender, the prisoners were crowded in an old church at Goliad, with no other food than a scanty pittance of beef, without bread or salt. Thus they were confined, yet sustained by the promise that they would be sent to the United States, so soon as a vessel could be procured to carry them.

“The evening of the 26th passed off pleasantly enough. Col. Fannin was entertaining his friends, with the prospect of returning to the

United States; and some of the young men who could perform on the flute, were playing, 'Home, Sweet Home.' At seven o'clock that night, an order, brought by an extraordinary courier from Santa Anna, required the prisoners to be shot.

"At dawn of day on Palm Sunday, March 27th, the Texans were awakened by a Mexican officer, who said he wished them to form a line, that they might be counted. They were then marched out in separate divisions, under different pretexts. Dr. Shackelford, who had been invited by Col. Guerrier to his tent, about a hundred yards south-eastwardly from the fort, says: 'In about half an hour we heard the report of a volley of small arms toward the River and to the east of the fort. I immediately inquired the cause of the firing, and was assured by the officer, that he did not know, but supposed it was the guards firing their guns. In about fifteen or twenty minutes thereafter, another such volley was fired directly south of us and in front. At the same time I could distinguish the heads of some of the men through the boughs of some peach trees, and could hear their screams! It was then for the first time the awful conviction seized upon our minds, that treachery and murder had begun their work. In about an hour more, the wounded were dragged out and butchered! The dead were then stripped, and their bodies thrown into piles. A few brush were placed over them, and an attempt made to burn them

up, but with such poor success, that their hands and feet, and much of their flesh were left a prey to dogs and vultures !”

A like scene of shocking brutality has never been perpetrated on American soil ! Such was the effect produced by it, even on the subordinate officer who commanded it, that he wrote to his general :

“ I feel much distress at what has just occurred here ; a scene enacted in cold blood having passed before my eyes, which has filled me with horror ! All that I can say is, that my duty as a soldier must be my guarantee.

“ I repeat it, I am willing to do anything, save and excepting the work of a public executioner, by receiving orders to put more persons to death !”

But in addition to this ; after the army were made prisoners, and were condemned to suffer death, the Mexican officer, attracted by the delicate and youthful appearance of young Hawkins, upon ascertaining who he was, proposed to give him an opportunity to escape ; to this he replied, that two cousins had joined the army with him ; they were prisoners also ; if they could be permitted to escape, he would gratefully accept the offer. This the officer refused ; young Hawkins replied, “ I will share the fate of my cousins.” They were marched out and murdered with the others !

The two cousins thus massacred with Norbourn Hawkins, were Robert, a son of Col. Owings, and

Samuel, a son of Col. Saunders; three sisters' children; their mothers, daughters of Colonel George Nicholas. Their fate seems to be the sealing with their pure, young, patriot blood—the crowning sacrifice of a family thus devoted to their country's cause, and thus connected with her great events, and her still greater destiny.

The American Muse has sung her plaintive song to the memories of the suffering pilgrims of Plymouth Rock; she has made that Rock to blossom and bloom beautiful flowers and delicious fruits forever; the deep-toned voice, the pervading intellect, the grand conception, and the sombre eloquence of Webster, have immortalized the sufferings and achievements of the Pilgrim Fathers, and the valorous deeds on Bunker Hill; the American heart has matronized Virginia, as the mother of States and of statesmen; yet here are sacrifices and sufferings not less bitter; here are deeds of valor not less noble; here are services and consequences second only in importance to the country!

Though this frail pen can not portray the scenes and sufferings through which they passed, surely it may pay its feeble tribute to their memories, and the heart may offer its incense gratitude, and of prayer for their eternal happiness.

CHAPTER VI.

While such have been some of the consequences to Joseph Hawkins and his family, of colonizing Texas, let us consider briefly the results to the people of the Union and the progress of society.

That vast country between the Gulf and the Pacific, has been brought into the American Union; under all the influences of the Christian civilization.

The citizens there and the people of the United States, have thus acquired a beautiful and fertile country, having a variety of climate, of soil, and productions, unsurpassed by any other portion of the Union, perhaps of the globe herself. So long as civilization shall live and move, it will grow and flourish there.

The people of those States and territories now possess unsurpassed wealth, and look to a future as brilliant as ever dawned upon American eyes. Whatever greatness of numbers, of wealth, of civilization, and happiness they may attain, will be a growth from the parent colony.

That colony of three hundred families that cost Joseph Hawkins his all, now spreads over Texas, New Mexico, Utah, and California. Texas contains two hundred and thirty-seven

thousand five hundred square miles—is nearly six times as large as the old Keystone State. It is a well known fact that Texas produced the acquisition of the other countries between her and the Pacific. Texas and the countries thus acquired, contain nine hundred thousand square miles—an area nearly three times as large as the thirteen original States. But the results are yet but partially stated—are local in their character. The consequences to the Union and to the civilized world are not less marked in history, or great in fact. The foundation for the greatest empire has thus been completed; uniting an extent and variety of soil, clime, productions and mineral resources, possessed by no other people on the globe. The hundreds of millions of California gold thus obtained have given a new impulse to society. While it is contended by some that the increase of gold has not been, and will not be productive of good results, the position is clearly erroneous. Since commerce commenced, the precious metals have been the basis of currency representing labor and all her productions. Society can not progress without such a representative standard of value. Commerce in modern times has increased beyond the increase of coin currency. There is yet a deficiency of gold to represent commerce. A resort to paper money has been the result with all its fluctuations and calamities. California gold has, to some extent, supplied the former

deficiency, has furnished a greater and more solid basis for paper money, and both together have given the late impulse to industry, employment, education and the whole machinery of society, and caused it to move with unparalleled rapidity. Whenever there shall be a sufficient quantity of gold to represent commerce, paper money will disappear, except for distant exchange, and a solid and uniform currency will thus be secured to all classes of men. Take for illustration the effect of California gold upon one branch of industry and improvement. Before the acquisition of Texas and California, the people of the United States had built six thousand miles of railroad. Since that time, they had in 1855 built sixteen thousand miles of railroad, and then had sixteen thousand miles more in course of construction. This work has been done at a cost of five hundred millions of dollars. Directly or indirectly the money came from the California mines, and the supplies of her exhaustless bosom yet flow in undiminished streams. While such have been and will continue to be, the effects of California gold, another result no less important has resulted to, and will ever continue with the country. The system of railroads thus built, when completed by the one projected to the Pacific Ocean, secures us forever from foreign invasion, even against the combined powers of the world. It has long been supposed that republicanism will have

a great defence to make against the attacks of monarchy and despotism combined.

The combined fleets of such an enemy, could throw into our cities and upon our shores, vast armies for invasion ; but with our railroad system, we could concentrate, on short notice, a force sufficient to defeat any army that could be borne here by all the fleets of the ocean. This secures us forever from foreign invasion, closes forever our ports against foreign foes, and saves tens of thousands of American citizens from being slain at home by foreign arms.

Having obtained such treasures and consequences from the California mines, surely, the wisdom and patriotism of the Union will provide for the use of a portion of her own productions, for building a railroad to her shores. Such a work is justly due her, and would not only complete the security of the Union from invasion, but would be the wisest measure of safety to the Union, and of commercial policy to the people.

The humble author has thus endeavored to trace, and present some of the great facts of American history, and to render something like justice to the deeds and memories of some of the great and good men who have thus served their country and mankind. He has endeavored to accomplish this object without injuring or detracting from others. He has relied much more upon the intrinsic force of facts, than upon any poor efforts of his, in connecting and presenting

them. Having learned that the ancestors of his wife and children, the only surviving child and grand-children of Joseph Hawkins, were thus connected with the great chain of events and achievements of their country, he has felt that his relation to them, has increased his duty to render justice to their memories. He has no fears that a liberal and impartial public will misconstrue his motives or his objects.

The author must be permitted to add that these facts and events have not been written in a spirit of vain-glorious pride, but having been deeply impressed with them, he ventures to present them as historical truths.

They belong to the country, and it has been the endeavor of the writer, to place them before a grateful country.

The current of life and events has appeared to the writer as remarkable in history. The Old and the New Worlds were first united by the marriage of Pocahontas and Mr. Rolfe under the solemn and sacred rites of the testament. Here is the beginning of the new Christian civilization; from this beginning to the achievements of the Revolution; the addition of new States; the acquisition and settlement of Louisiana and the great Mississippi Valley; the colonization, independence and acquisition of Texas, and the countries between her and the Pacific ocean; thus a union and a current of life and events, beginning with the first

colony, extending across the continent, and down to the present time.

The wants, the happiness, and the greatness of a people consist of territorial resources and their cultivation of them on the one hand, and their mental and religious culture on the other. The people of the United States have secured an extent and variety of territory, with material sufficient to supply hundreds of millions of people with all the necessities and most of the luxuries of life. They need give themselves no concern at present for the further extension of their territory. This great object, the foundation of a great Union of States has been secured. They want the Island of Cuba, not so much for her territory, as for the high purposes of peace justice and commerce. Their internal system has secured them from invasion by land, and they want Cuba as a work of defense and of peace on the ocean. Great wars at sea have always been and will always be, attended with great loss of life, and of commerce. Every people that have a flag upon the ocean have an interest for peace. Cuba is the natural bulwark of the commerce of the shores of the Gulf and the great valleys and plains of the West and South. The possession of her by a distant owner and oppressor, is one of the vestiges of a past age which the arrangements of nature and the demands of modern progress, must soon remove

and bring her into the great American Union of States.

The great work for the American people to accomplish is to preserve and improve what they have. But some of our statesmen advocate the aquisition, not only of Cuba, but of Mexico, and Central America. It is to be hoped, that the American people, will pause, consider well, and be certain of safety and a sufficient inducement, before making any further continental extension of their government. The two causes most likely to produce a disruption of the Union, though separate, yet they co-operate in tending to this end; the premature acquisition of Mexico and Central America and the question of African slavery.

The acquisition of those countries would bring into the Union millions neither fit for slavery nor for successful freedom. The premature acquisition of much more territory than our population want or can use, in any reasonable length of time, would be so managed as to induce a great increase of foreign emigration. This added to the mixed population belonging to those countries, would form a state of society, that could neither add to the safety, the prosperity nor the happiness of the present population of the Union. Such an extension of territory and the accumulation of such a population, would greatly weaken the bonds of the Union. While our system of government is capable by timely expansion of embracing a vast extent of territory,

properly divided into States, having a homogeneous and intelligent population, such an additional mixture would make the people more likely to be carried away by the tempests of passion beyond the point of retreat, a dissolution of the Union of the States. This result has always been regarded with the greatest terror by the wisest and best patriots our country has produced. It would certainly throw the States into chaos, and their struggles with each other and with monarchy and despotism from abroad, would in all human probability, be fatal to liberty and happiness forever.

The premature acquisition of Mexico and Central America would be a great movement towards a dissolution of the Union. Such an extent of country, added to the Southern States, would give them such a field for slave labor, for a splendid Southern confederacy, as would soon cause them to endeavor to withdraw from the Union. However brilliant the prospect of two great separate Unions of free and slave States, there is the greatest danger that the present Union once dissolved, the States would be convulsed and blighted by perpetual struggles and civil wars. Such a result in comparison with the present condition and prospects of the Union wisely conducted, is the most terrible that the wreck of earthly happiness and prospects could present. To avert this end on the one hand and to pursue the great mission of peace on

the other, it should be the grand object of every American statesman and philanthropist, to aid in preserving and justly conducting the constitutional Union of the States. There is one feeling common to every American patriot, that is, that our system of government shall endure for and with our posterity forever. The thought of leaving them in all the miseries, calamities and crimes of destroying each other, is most revolting to the mind and agonizing to the heart of every philanthropist.

The writer ventures to suggest as a remedy for the tendency of our government, to make further acquisitions of territory, the strict enforcement of the Monroe doctrine to the line of South America. This will secure Central America and Mexico to the Union when the people shall really need and can acquire them with safety.

The following, written while the conduct of Commodore Paulding, and the policy of the United States in reference to Central America was pending before Congress, expresses the humble opinion of the writer on the important subject referred to by it:

[For the Kentucky Statesman.]

Lexington, Kentucky, Feb. 1, 1858.

"HON. * * * * *

Knowing you more intimately than any other member of Congress, I take the liberty of calling your attention very briefly to the late capture of

Walker and his companions in Central America; and the bringing of them by force to the United States.

If the history of the government has established a solitary principle of liberty it is the right of expatriation. It is not only the great principle and fact of our government, but of civilization herself.

The march of Moses with his people under the command of the Almighty himself, is the first great instance of expatriation, or emigration from one country to take possession of another. Pharaoh denied this right and pursued them. Instead of the success he so confidently expected, the wrath of an offended Deity overwhelmed him and his hosts in the dark depths of the sea. The Israelites pursued their journey and made forcible conquest of the land of Canaan, and thus laid the foundation of all subsequent civilization and true religion. Passing over the many intervening instances, the next greatest instance of the kind is found in the history of our own country. The Pilgrim Fathers had to escape from the tyranny and pursuit of their oppressing government. It is thus described by the great Webster in his discourse on the settlement of New England.

At the present period, it seems incredible that the learned, accomplished, unassuming, and inoffensive Robinson, should neither be tolerated in his peaceable mode of worship in his own coun-

try, nor suffered quietly to depart from it. Yet such was the fact. He left his country by stealth that he might elsewhere enjoy those rights which ought to belong to men in all countries. The departure of the Pilgrims for Holland is deeply interesting, from its circumstances, and also as it marks the character of the times, independently of its connection with the names now incorporated with the history of empire. The embarkation was intended to be made in such a manner, that it might escape the notice of the government. Great pains had been taken to secure boats which should come undiscovered to the shore, and receive the fugitives; and frequent disappointments had been experienced in this respect.

At length the appointed time came, bringing with it unusual severity of cold and rain. An unfrequented and barren heath, on the shores of Lincolnshire, was the selected spot, where the feet of the Pilgrims were to tread, for the last time, the land of their fathers. The vessel which was to receive them did not come until the next day, and in the meantime the little band was collected, and men and women and children and baggage were crowded together, in melancholy and distressed confusion. The sea was rough, and the women and children were already sick, from their passage down the river to the place of embarkation on the sea. At length the wished-for boat silently and fearfully approaches

the shore, and men and women and children, shaking with fear and with cold, as many as the small vessel could bear, ventured off on a dangerous sea. Immediately the advance of horses is heard from behind, armed men appear, and those not yet embarked are seized, and taken into custody.

Thus we see that their oppressors did not pursue them on the high seas, nor on foreign soil.

It was, in the exercise of this right of emigration, that all the American colonies were established, and finally made independent States. Every American knows that our colonial fathers drove the Indians, by countless bloody conflicts, still further and further from the Atlantic coast, and took from them the lands they occupied. It is well known to have been sanctioned by the great precedent of Moses and his people, directed by God himself; sanctioned by the practice of all subsequent peoples, and by every principle of morality and religion. Not that it is right to rob individuals or communities of their property; but where a savage or degraded people are found in possession of a country whose richness they spurn and abuse, that country may be rightfully taken, by force, if necessary, for all the high purposes of civilization and religion. The war of 1812, with England, grew out of the same question. The United States asserted the right of expatriation,

and denied England's right to board our vessels at sea to search for subjects. It was in vindicating this position and principle that Henry Clay declared that 'the flag that floats at the mast head is the credentials of American seamen.' Let us apply these great precedents to the case of Walker and the conduct of Commodore Paulding.

Gen. Walker and his companions first went to Central America, as he states, under the colonization laws of that country, and became citizens there. He further states that he was afterwards elected President of that country; that a revolution reduced him to the situation of danger from which he was relieved by the American vessel which brought him to this country. While here he proposed to return to his adopted country, and invited emigrants to go with him. No one can deny his right to do so, whether a citizen of the United States or not. No one can deny the right of our citizens to go with him to that or any other country. No one can deny their right to carry arms and munitions, whether for defence or aggression, provided they do not form themselves into a military organization in the United States. Our government has nothing to do with their intentions, unless they commit the overt acts of organizing into an army or expedition, as forbidden by our laws. If they did that, they were subject to arrest and punishment. To arrest on our own soil, or within our own jurisdiction; within the marine league of our own shores, or on our own vessels at sea. The

law and offense being local, the right to arrest or punish is likewise local.

The jurisdiction of a government is of right, and must be confined to her own territories, and to her own vessels at sea.

The rights of persons on foreign soil at peace with us, have always been held sacred. Even the traitor Arnold who betrayed and tried to destroy the liberties of his country, was secure on foreign soil. And who does not know, that even the worst of criminals against foreign laws are secure on our vessels, under our flag at sea, and on our soil.

If Walker and his men violated our laws they ought to have been arrested while in the jurisdiction of our laws and tried for the offense. But I believe we may safely refer to a similar case in some points of law, and in policy. In 1793, it was rumored that Jay, who was regarded as hostile to the West, was to be sent as minister to England, and that the navigation of the Mississippi River, was to be abandoned by our government. Under these circumstances a strong military force was being organized in Kentucky to be commanded by Gen. George Rogers Clark, it was said, to make conquest of the lower Mississippi. In November, 1793, the Governor received a second communication from the President, most earnestly urging him to suppress the expedition. In reply to this order the dauntless patriot declined to use

force 'against men whom I consider' says he 'as friends and brethren in favor of a man whom I view as an enemy. I shall feel but little inclination to take an active part in punishing or restraining my fellow citizens for *supposed intentions* only, to gratify or remove the fears of the minister of a Prince who openly withholds from us a most invaluable right.' Again, under the administration of Jefferson, Miranda fitted out an expedition in this country, and sailed to Caracas for the purpose of revolution. Mr. Jefferson gives the following account of it himself: 'He informed us he was about to attempt the liberation of his native country from bondage, and intimated a hope of our aid or connivance at least. He was at once informed that, although we had great cause of complaint against Spain, and even of war, yet whenever we should think proper to act as her enemy, it should be openly and above board, and that our hostility should never be exercised by such petty means. We had no suspicion that he expected to engage men here, but merely to purchase military stores. Against this there was no law, nor consequently any authority for us to interpose obstacles.' Although his measures were many days in preparation in New York, we never had the least intimation or suspicion of his engaging men in his enterprise until he was gone; until it was too late for any measures to be taken at Washington to prevent their departure. The officer in the customs

who participated in this transaction with Miranda we immediately removed, and should have had him and others further punished had it not been for the protection given them by private citizens at New York.'

We here see that notwithstanding the indignation of Jefferson against his officers for enabling Miranda to escape, yet he never dreamed of pursuing the expedition on the high seas or on foreign soil.

While history has thus established the practice of nations it is certainly the policy of this country not to violate these great principles when that violation will produce great injury to our own country. Central America is the most important natural point with reference to the greatest commerce of the globe.

England and France, especially England, have their eyes on that country. We have only to recall the fact that the great Russian war saved us from a threatened conflict with the allies in the Gulf. When they shall have sufficiently recovered their resources they will be likely to revive and execute the then threatened invasion. They want that country for the commercial advantages it would give them. We do not want the country, but our people will never permit them to have it. It is more desirable to us that it should be settled and governed by Americans of our own kindred and language, whose preference for us would not permit them to discriminate against us. If

there be a difference it is much more important to the North-east, than to any other portion of the Union for that country to become settled by Americans. The South already have as much territory as they want or can manage, and can not be profited by encouraging competition in their own peculiar productions. The North-east are a manufacturing and commercial people and being much nearer to the East Indies through that route, will have vastly the advantage in that great trade, if they have equal privileges of transit. France and England know this and will endeavor to get superior rights there to over-balance our nearer position. We had better therefore let our people emigrate to and govern the country, than to give it up to influences that will finally place it under the control of England and France, and thus be compelled to wrest it from them by war.

Your obedient servant,

LEIGHTON."

When we consider the rapid increase of our country, we know that the time will soon arrive, when it will contain a great population. Eighty-five years ago, they numbered less than three millions of people. They now number twenty-eight millions—more than nine times the number on Independence Day. At the expiration of a century from Independence, the States will probably contain forty millions of people;

fourteen times their number in the beginning of their great struggle for freedom. If the increase of the second century shall only be four times the number at the time of its beginning, instead of fourteen times, as in the first century, then at the expiration of the second century, the population of the Union will be one hundred and sixty millions, and the government will yet be, or rather ought to be, in her infancy. That our population will reach this number at the end of the second century without any additional inducements to foreign emigration, and without the acquisition of a fixed population with the soil, there can be no reasonable doubt. These great facts are worthy of being considered, and must be considered by the people, in order to secure the safety, and promote the permanent good of their country. We can not shut our eyes upon the future. While in the prime of manhood it is the duty of the parent, to educate and provide for his children. It is likewise the duty of the citizen to act in such a manner, in reference to the great measures of his country, as will secure the rights and promote the prosperity and happiness of his family, his neighbors, and his country; not only for the present, but for all time to come. Considering the perfect security of our country from foreign invasion so long as they remain united themselves, considering the causes most likely to continue that Union, and

at the same time the prosperity and happiness of the people, looking to their increasing numbers, the consequent diminution of cheap lands, and the competition of every description of labor, looking at the great facts and philosophy of history, that as a country grows old, it generally grows corrupt, that a dense population struggling for bread, is not a happy state of society, that such a population, composed of mixed colors, races, languages and interests,—can not long remain free, happy and united, these dangerous tendencies of our age and country, ought, by all means, now to be checked, and controlled through all future time.

Should foreign emigration ever become a burthen to the people of the Union, their sense of danger, their love for their children and the law of self-preservation, will certainly rouse them, and cause them to regulate or prevent it. In the days of the Colonies, and the early days of the present government, it was a question of very different circumstances. Then, here was a Continent to subdue and bring into cultivation, with comparatively few to accomplish the object; now, the independence and security of our people having been established, our population and government having taken position with the great powers of the earth, the question is and will be, how can we best preserve our system of government, and promote the welfare and happiness of the country. In pursuit of these objects, those who have come from abroad and those who

may hereafter become residents of the country, have a like interest with the native citizens; the welfare of themselves, their families and their country.

In addition to these views separately considered, they connect themselves with a kindred subject. The greater the number, mixture and extent of population, the greater the danger to the Union from that fearful question, the subject of slavery. This is the great question of danger to the peace and perpetuity of the Union. Whether African slavery will ever be abolished in the States, or in any of them, is not a question to be here considered. But it may be observed without going farther into that branch of the subject, that this as all other great radical changes in society, can only be affected in one of two ways; by the peaceful, constitutional action of the States containing it, or by revolution and war. As none but madmen contend for the latter, the question ought to be left with the former method. In view therefore of the peace and welfare of the country—in view of the great mission and destiny of our country, let us briefly review the history of

THE INSTITUTION OF SLAVERY; AND

The decision of the Supreme Court of the United States in the case of Dred Scott.

Since the union of the States, no question has produced so much excitement among our

people, or threatened so seriously a dissolution of the Union as the attacks through Congress upon African slavery as it exists in the Union. The question whether or not Congress, has the constitutional right or power to prohibit slavery in the Territories belonging to the Union, is the one out of which the excitement has chiefly grown, but it has also included the fugitive slave law and the importation of slaves from one State to another, where slavery exists.

The Congress and the Supreme Court of the United States, assisted by all the accumulated light and experience on the subject, have recently decided the main question, but there is a political party in the country of great power and extent still attempting to get control of the government and overthrow that decision. Inasmuch as the success of that attempt would almost certainly result in a dissolution of the Union, and one of the greatest and most disastrous of wars, every citizen who will throw a new ray of light upon the subject, or excite a glow of patriotic emotion, will render important service to his country, and the great causes of republican liberty.

In making this effort, he must eradicate from his mind every motive but those springing from an honest search for truth, united with the high objects and pursuits of his country.

In order to ascertain the power of the Congress of the United States or of the Supreme

Court upon any question of reasonable controversy, it is necessary to trace the history of that Constitution under which the power is claimed.

In order to understand what the law is, it is necessary to know what the law was, is a maxim founded in the clearest truth and common sense. So also to understand the nature, extent, bearing or effect of any of the great institutions of man or facts of history, we must trace that institution from its origin to the present time. In order to understand the nature and extent of a government or of any law under it, we must understand the condition and language of society when the government was formed, and the facts to which the law was made to apply. Let us therefore briefly glance, unpleasant as is the thought of such a necessity, at the history of human slavery, tracing it from its known origin down to the period when our system of government was formed. While our examination of it must be very brief, it must embrace all the great facts and laws affecting the subject. This course and this only, will enable us to discover the actual condition of society, the state of case then existing, the objects our fathers had in view, and the meaning of the language used by them when they united the colonies as independent States, and formed the governments under which we live.

We learn from holy writ that our first parents were created pure, but were seduced to fall from their high estate. Their first born were created equal; but the one found greater favor with his creator; the other became his murderer, and lost his equality forever. After this, the wickedness of man became so great that his Creator swept him from the earth, saving only the family of a just and obedient man. When the descendants of Noah had multiplied into great nations of the earth, God permitted his chosen people, his select children of Israel, to be enslaved for four hundred years. When they had multiplied to the number of a million of people, He led them, by his oracle, their great chief, Moses, from slavery into a land of plenty and of freedom. While on this great journey He appeared to them and delivered to them through Moses, a code of laws for their government. Immediately after he had delivered the ten commandments to Moses, "all the people saw the thunderings, and the lightning and the noise of the trumpet and the mountain smoking; and when the people saw it they stood afar off," * * * "and Moses said unto the people, fear not, for God has come to prove you and that his fear may be before you that ye sin not * * * "and the Lord said unto Moses thou shalt say unto the children of Israel" * * "now these are the judgments which thou shalt set before them" * * "If thou buy a Hebrew servant

six years he shall serve, and in the seventh he shall go out free for nothing." "If he were married, then his wife shall go out with him." * * "If his master have given him a wife, and she have borne him sons and daughters, the wife and the children shall be her master's, and he shall go out by himself. And if he shall plainly say, I love my master, my wife and my children, I will not go out from them, then his master shall bring him unto the judges; he shall also bring him to the door or unto the door post, and his master shall bore his ear with an awl, and he shall serve him forever." (1) The Almighty spoke again to Moses in Mount Sinai: "Speak unto the children of Israel and say unto them when ye come into the land which I give you, then shall the land keep a sabbath unto the Lord" * * * "and ye shall hallow the fiftieth year and proclaim liberty throughout all the land unto all the inhabitants thereof; it shall be a jubilee unto you and ye shall return every man to his family. A jubilee that fiftieth year be unto you. Ye shall not sow, neither shall ye reap that which groweth of itself in it, nor gather the grapes in it of thy vine undressed." * * "I am the Lord your God which brought you out of the land of Egypt, to give you the land of Canaan and to be your God. And if thy brother that dwelleth by thee waxen poor

(1) 20 and 21 ch. Exodus.

and be sold unto thee, thou shalt not compel him to serve as a bond-servant, but as a sojourner he shall be with thee and shall serve thee unto the year of jubilee and then he shall depart from thee, both he and his children with him, and shall return unto his own family, unto the possession of his family shall he return: For they are my servants which I brought forth out of the land of Egypt. They shall not be sold as bondmen. Thou shalt not rule over them with rigor, but shalt fear thy God: Both thy bond-men and thy bond-maids which thou shalt have, shall be of the heathen which are round about thee; of them shall ye buy and of their families which they begat in your land; and they shall be your possession; and ye shall take them as an inheritance for your children forever, but over your brother, the children of Israel, ye shall not rule one over another with rigour."

Could language or intention be plainer? Here is defined a code of laws for a chosen people who are treated as equals respecting each other, but superior to the heathen and stranger to whom more rigorous laws are applied. While the general law is that of equality and freedom, yet the exception is as clearly set forth and applied, no doubt to the physical as well as the moral and religious difference in the persons to whom they were applied by the Creator himself. These laws, spoken by the great Jehovah himself, none but fanatics can to question their wisdom or

justice. They remained many centuries the laws of God directly to man, and still remain so unless they have been repealed.

As the Father of all, He spoke to his chosen children; he gave in person the ten commandments and the other laws for their government, so likewise his only Son, the Saviour of his people delivered in person his great sermon on the Mount to the descendants of those children.

The sermon on the Mount stands in its perfection as high above the efforts or laws of man, as the speaker was above his hearers. That sermon and the other truths, proclaimed by him, contained all the great laws for *His* government of the world. So far as the old laws were incompatible with them, they were repealed; but the Saviour did not anywhere forbid or repeal the institution of slavery. Although under the Mosaic law and throughout the world slavery had existed in great severity and extent—millions had been and were then in cruel slavery—the Saviour did not forbid or repeal its laws: Although, as is recorded by the great historian Bancroft, “Slavery and the slave trade were older than the records of human society, and pervaded every nation of civilized antiquity”—although “the light that broke from Mount Sinai scattered the corrupting illusions of Polytheism, slavery planted itself even in the promise land on the banks of the Siloa, near the oracles of God;”

although the tragical fate of the beautiful Virginia, is an instance and an index to slavery under the Roman law—and there “the father could sell his children, the creditor his insolvent debtor, the warrior his captive,—there the influence of slavery was carried into the condition of every contract, into the heart of every unhappy land that was invaded by the Roman eagle;” and “the slave markets of Rome were filled with slaves of every complexion and from every clime,” yet the *Saviour* did not forbid or repeal, but recognized the institution of slavery. In delivering his great sermon on the Mount “He taught as one having authority.” “And when he was come down from the Mount great multitudes followed him,” “and when he was entered into Capernaum there came unto him a centurion beseeching him and saying,” “Lord my servant lyeth at home sick of the palsey, grievously tormented:” “And Jesus saith unto him,” “I will come and heal him.” “The centurion answered and said,” “Lord I am not worthy that thou shouldst come under my roof; but speak the word only and my servant shall be healed.” “He said to them that followed,” “verily I say I have not found so great faith in Israel.” He said to the centurion “go thy way, and as thou believed so be it unto thee; and his servant was healed the self same hour.” (2) The centurion was a Roman officer.

(2) St. Matthew ch. 8, St. Luke ch. 7.

He was not one of the children of Israel. His servant was one of the bondmen of the Mosaic law, a slave under the Roman law. The Saviour forbid and denounced all sins that he disapproved of, and while he commanded repentance, meekness, charity, brotherly love and justice, yet he did not directly interfere with any of the laws of man. His disciple, Peter, also taught: "servants be subject to your master's with all fear." For this is thank-worthy if man for conscience toward God endure grief, suffering wrongfully; for what glory is it, if when ye be buffeted for your faults ye shall not take it patiently; but when ye do well and suffer for it, ye take it patiently, this is acceptable with God."

The Saviour came not to make governments or kingdoms for men. His kingdom was not of the world. He left those duties with man, leaving at the same time his pure and holy precepts—His mission of love, charity and salvation to every class and condition of men.

Thus, notwithstanding His mission was fulfilled in the Roman Empire, slavery continued, unforbidden by him, throughout her dominions, until she was overthrown by northern barbarians and ceased to exist as one of the powers of the earth. But her overthrow was not the overthrow of slavery. The conquering tides that swept over her vast domains, continued slavery and the slave trade. From the Baltic to the Mediterranean across the entire continent, including

all western Europe to the Atlantic coast, so also throughout Palestine and portions of Asia and Africa, slavery and the slave trade were continued to a great extent and in a most oppressive form. Through those dark and desolating centuries when the christian world was struggling to wrest the holy land from infidel hands, "in the camp of the leader whose pious arms redeemed the sepulchre of Christ from the mixed nations of Asia and Lydia, the price of a horse was three slaves." Through those long and bloody wars between the Christians and Moors, that convulsed western Europe for seven centuries, slavery was, on either side, the doom of the captive, and millions suffered the penalty in its severest forms. The final victory of the Christians drove the Moors to the northern coast of Africa where they continued not only to retaliate upon their Christian enemies, but began to deal in the natives of Africa who had been subject to slavery from immemorial time.

The African race had always held possession of a rich quarter of the globe; a vast population, they had always been divided into petty kingdoms and tribes; without civilization and the christian religion, they had no fixed laws of justice, no governments but those of force directed by the will of savage kings. The warmth of their climate, the richness of their soil and its spontaneous productions, rendered necessary very little labor to sustain their

swarms of people. Their chief employment was war; kingdoms against kingdoms; tribes against tribes; brothers against brothers.— Prisoners, according to their law had forfeited their lives. They were either put to death in a cruel manner, or lived as slaves at the will of their barbarous masters. Thus African slaves were carried to modern, as they had been to ancient Europe. The traffic was established half a century before Columbus discovered the American Continent. And, although the influence of the christian religion, the revival of education, the cultivation of the arts and sciences, the general diffusion of intelligence among, and the great increase of population, have, to a great extent, dispelled the darkness of the middle ages, re-constructed the governments of Europe, and emancipated her people from slavery; yet, the African slave trade has been continued to the new continent from its early settlement to the present time. Until a recent period, this trade was not only sanctioned by the great powers of Europe, but, for a considerable time, it was forced upon the North American colonies by the kingdom of Great Britain herself. When the Spaniards colonized the West India Islands, they reduced the natives to slavery, and by a cruel oppression destroyed, in a few years, millions of Indians. The benevolent Las Casas, moved by a desire to save the remainder of that suffering race, proposed to substitute slaves from

Africa. Touched by his appeals, Charles the Fifth granted a license to one of his courtiers to import four thousand negroes to the Islands. This is the origin of slavery in America, nearly a century before the colony of Virginia. Slaves were brought into that colony by a man-of-war in 1520. As the other colonies grew up, it spread through them all. The importation of slaves was for more than a century almost solely the work of the English. As early as the days of William and Mary, the Commons declared for the traffic; the statutes of the kingdom soon after sanctioned and justified it; Queen Anne boasted to her parliament of having secured to her subjects a new market for slaves in Spanish America; under George the Second, the parliament established African forts; and as late as 1750 a member of the House of Lords stated that "six and forty thousand" slaves were sold every year to the English plantations alone.

Virginia first checked the importation of slaves by a tax, but the influence of the African company procured a repeal of the law. Thus the English continued the trade until it was taken from them by their more daring American competitors. While the people of the colonies must have disapproved the capture and importation of slaves, it was no sin for them to purchase them. Having been made slaves in their native land some of them were brought to our colonies. The Spaniards had made conquest not only of

the West India Islands, but of Central America, Peru, and Mexico. Having destroyed millions of Indians in slavery, they were carrying the Africans to their colonies. It was far better then for the African slave to be purchased and held by the humane citizens of our colonies, than to have been doomed to the cruel slavery of the Spaniards. While, therefore, the governments and traders that established the business of capturing and importing slaves may deserve to be censured, the conduct of our citizens who purchased and treated them kindly, is not only free from just censure, but far above the reach of slander.

The slaves imported to, and purchased in the colonies, were held as property under the laws and usages of all the colonies. The carrying of slaves from one colony to another, and selling them there, always existed among the colonies. Before the Revolution, the people of the colonies were dependent, to some extent, upon the British government, and acknowledged allegiance to her King; but their relation to each other was that of equal and separate communities. In all the colonies, and throughout their territories, slaves were held as property, were bought and sold, were liable to the laws of descent, of debt, and of capture wheresoever they escaped.

Thus, from its first introduction, slavery grew up with American institutions, become a part of American civilization, and the common law of

America. It was thus sanctioned and maintained by the statutes, the courts, and the colonies, when they were united by their Declaration of Independence. That Declaration did not repeal or impair any law or custom affecting African slavery.

It is contended that it proclaimed certain great self-evident truths, and natural rights, directly at war with the institution of slavery; "that all men are created equal, that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness." It is evident from the language, "all men," that the author and signers of the Declaration intended to express truths and principles of justice belonging in all ages of the world, to every people capable of understanding and reducing them to practice.

The signers of the Declaration had no power to construct a constitution for the internal government of the colonies. Their objects and powers were both limited to a declaration of independence, and the assertion of those great truths from which the colonies derived their right of independence as the equals of their British oppressors. While those truths have been adopted as the basis of our system of government, as they should be of every one, yet they can not be of universal application, either in point of time, place or to persons. The history of the world proves them to have been applica-

ble to those communities only, who are able to receive and carry them into practice. The Holy Scriptures contain the purest principles of conduct and promise salvation equally to all who obey them, they also declare that God is equally just towards all, yet they do recognize that inequality of men, which they have brought upon themselves and their children. While, likewise, the author and signers of the Declaration of Independence proclaimed the great general political truth, that all men are created with certain equal, inalienable rights, among which are life and liberty, yet they neither had the power nor the intention thereby to liberate the imprisoned or the enslaved. They intended to, as they did, lay down certain great general principles, having exceptions, which they proved themselves by retaining prisoners lawfully confined, and by holding slaves according to the laws and usages of the colonies. They did not in the Declaration refer to or include the African in America as having any political rights whatever. While they denounced the British for having incited insurrection among their people, refering in this instance alone to the African race, they did not in the remotest degree apply those truths and rights of liberty to the African race in America. Their conduct, corresponding as it did with this interpretation of their intentions, is the most conclusive proof of its correctness.

CHAPTER VII.

The next Union of the States was by virtue of their Articles of Confederation.

Article 1st provides "that the style of this Confederation shall be the United States of America."

By Article 2d, "each State retains its sovereignty, freedom and independence, and every power, jurisdiction or right which is not by this confederation expressly delegated to the United States in Congress assembled."

There was no power, nor the slightest semblance of power, delegated to Congress to prohibit slavery any where, or to impair the rights of individuals to their slaves, or restrict the full sovereignty of the States over the subject. It remained as before throughout the States and Territories and no one then questioned this universal understanding and practice of the people of the States. The States continued this confederacy until they superceded the articles by adopting the Constitution of the United States.

The preamble of the Constitution declares it to be the Constitution of the *people* of the United States; and the first article provides that "all legislative powers herein granted shall be vested in a Congress of the United States, which shall

consist of a Senate and House of Representatives." It then goes on to express all the powers it does vest in and delegate to Congress. After enumerating those powers, it provides that "the enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people."

Thus, the history and provisions of the Constitution confine the powers of Congress to those expressly enumerated in the Constitution, and such as are "necessary and proper" for carrying them into execution.

One of the highest rights of the citizen is the right of property. It has always been classed with life and liberty, because it proceeds from them, and continually re-supplies them, the source of its own existence, with food necessary to theirs. The life-blood that courses the veins, giving power to the body and mind, the motion that executes the will in pursuit of food, are the elements of the life, liberty and property that constitute every individual and political existence. They are so intimately connected with and dependent upon each other, that the one can not be injured without producing a corresponding effect upon the other. As in the one case it is sometimes necessary to take a part of the blood, to regulate the exercise of the body and the use of food, in order to preserve life and health; so it is likewise sometimes necessary to take individual life, liberty and property, to preserve the life and

health of society. But this can never rightfully be done, except by the highest sovereign power, under the necessity of taking a part to preserve the remainder. The great object of government is the preservation, not the destruction or invasion of life, liberty and property. It is a fact as clear as the sun in heaven, that when the Constitution of the United States was formed, African slaves were held as individual property throughout the States and their territories, excepting in one of each; that the liberty the Constitution was made to preserve, was not the liberty of the slave; that the Constitution was made with reference to and in full knowledge of slavery; and if it had not contained a word respecting slavery, it would have remained with the people among the States as before.

The Constitution of the United States did and does, not only recognize slavery as lawful property, but it commands Congress to include three-fifths of the slaves in making Congressional apportionments, and it guarantees the rights of individuals to all their property. That clause of the Constitution which provides that "the migration or importation of such persons, as any of the States now existing shall think proper to admit, shall not be prohibited by Congress prior to the year one thousand eight hundred and eight," has always been known and acted upon as referring to the slave trade from *abroad*, whereby the Constitution sanctioned the importation of slaves to be held

as property. So also that portion of the second section of the fourth article of the Constitution, which declares, that no person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered upon claim of the party to whom such service or labor may be due," has always been known and acted upon as referring to slaves as property. The power, therefore, to prohibit slavery, or any other description of property, must be one of the great powers of original or primary sovereignty which could only exist in a State, or in the Congress of the United States, by virtue of a clearly expressed delegation of power from the people. There is nowhere to be found in the Constitution of the United States any such delegation of power. The only clause from which, *prima facie*, such power might be claimed for Congress over the Territories, with any semblance of reason, is the one which declares, "the Congress shall have power to dispose of and make all needful rules and regulations, respecting the Territories or other property belonging to the United States." But when taken in connection with the history, and other provisions of that Constitution, it is clear that it was not intended to, and does not, confer such power upon Congress. It is expressly confined in its application to property belonging to the United States, and does not

reach so far as to take hold of the property of the citizen. It places the Territory on precisely the same footing with other property, whether it be in the States or Territories. Congress may, under this clause, pass laws or rules and regulations to govern her Custom House or Navy Yard at New Orleans, yet no intelligent citizen will contend that she can prohibit the officers of government therein employed from holding slaves at their residences. The power of Congress is expressly confined to the "territory or other property," belonging to the United States, and does not include the property of a person who may hold an office, buy land of, or live in the Territory, under the government of the United States.

It is contended that, under this provision, Congress has unlimited sovereignty over the Territories, unless expressly prohibited or limited by other provisions of the Constitution. This seems to have been the idea of the Supreme Court of the United States, when they declared, that, "In legislating for the Territories, Congress exercises the *combined powers* of the General and State Governments." This is a self-evident absurdity, and must be considered simply as an unguarded expression. The idea of Congress exercising the *combined powers* of State and General Government ! There is not a lawyer in America, who does not know, after a moment's reflection, that the legislative *powers* of the States and of the

National Government, are perfectly separate and distinct, even when concurrent, in all things and all cases. They derive their powers from different constitutions, and are as several in their acts and powers as the different acts of the several States.

The Constitution expressly gives Congress legislative power over the territories, and gives it to Congress alone, as a sole and single power, so far as it goes, as the Congress and as one of the co-ordinate branches of the government of the United States, not in combination with the power of a State; yet it does not give Congress unlimited power. It might be safely said that the power given by the Constitution to Congress, over the Territories is in the nature of, or similar to, the power possessed by the States within their limits; but to say that it is a combination of the powers of "the General and State government," is an almost inexcusable inadvertance. It is from this greatest of errors that its next in sequence follows, to wit: That as the sole and unlimited sovereign, she may pass all laws that she may deem needful for the Territories. So she may for the Territories as property belonging to the Union, but not for the people—not for those to whom she sells her land, and whom she invites from all the States to live in the territories. They have many reserved rights of persons and property, that Congress can not invade, although as unlimited in regard to them as the right in question. What is the sovereign

power of a government? We understand it to be that power, to make and execute laws, which belongs to the citizens of a State or government. Thus, the citizens are the original sovereigns, and their officers possess so much power only as is granted by the sovereigns in their Constitution. So far as the grant extends, so far the officers may go; no farther. While this is true in philosophy, it is pre-eminently the great idea and principle of the government of the United States. In the States, as single and original sovereigns, the citizens have generally conferred all legislative power not prohibited by their Constitution; but the reverse of this rule is found at the very threshold, and pervades every department of the government of the United States. Silence in the Constitution gives no consent to the claim of power by Congress. Such a position points only towards despotism. Where does the member of Congress from Texas get his right to vote on a measure affecting the destiny of the citizens of Main, or of any of the distant Territories of the Union? Is it from silence? From no provision in the Constitution? Or is it from mutual delegation of power for mutual protection and benefit? The history and provisions of the Constitution, the great principle that pervades every part of it, the rights and liberties of the people, and the continued union of the States, all answer, from the latter! Thus, if there were no limitations to the power of Congress, but the very

nature of the clause under which the power is claimed, still Congress could not, under that clause, prohibit the people of any portion of the United States from holding any kind of property which existed, and wherever it existed, when the Constitution was adopted. We have already shown that the people of the colonies and States possessed and reserved the right of holding their slaves as property, of carrying them into any of the States or Territories for sale or use, unless expressly prohibited by the State; and the right of recovering their slaves: "That this was the law and usage of all the States and Territories, when the Constitution was adopted: That the Constitution not only recognized it to be law and fact, but expressly sanctioned and guaranteed all these rights to the people. It not only sanctions their existence affirmatively, but commands Congress to legislate upon these rights; to provide for the recovery of slaves as property, to permit its increase by restraining Congress from prohibiting the importation of slave property prior to 1808. The Constitution also limits the power of Congress by providing that no person shall be deprived of his property without due process of law, and that private property shall not be taken for public use without rendering just compensation for the same. These provisions were not only made with reference to the existence of slavery as property in the existing States and Territories. They are

all jointly and severally express limitations upon the power of Congress over the people of the territories, because they apply directly to the subject, and to Congress co-extensively with her legislative action.

In conclusion, and in proof of the correctness of this view of this portion of the question, we again appeal to the Constitution itself:

“All legislative powers herein granted shall consist of a Senate and House of Representatives.” “The enumeration in the constitution of certain rights shall not be construed to disparage others retained by the people.” “The powers not delegated to the United States by the Constitution, nor prohibited by it the States, are reserved to the States respectively, or to the people.”

It is also contended that the clause of the Constitution which gives Congress the power to admit new States, carries with it the power to prepare the Territory, by all such laws as Congress may judge needful, for her admission as a State. The answer to this is very brief. We all know that Congress has no power to make a State Constitution, nor can she admit a State without a Constitution. The people of the Territories must make their own Constitution, and if that Constitution be republican, although it may permit slavery, the State must be admitted on an equality with the other States. If, before or at the time of the formation of such State

Constitution, Congress prohibit slavery, or any other kind of property existing when the Constitution was made, and still exists in any of the States, that is a violation of one of the vital rights of republican equality with the States. If a State come into the Union, thus shorn of her sovereign equality with the other States, thus under Congressional duress, it is a violation of that equality of the States which is one of the foundations of our system.

If Congress has the right to prohibit slave property in the Territories, she has the same right to prohibit any other kind of property, wherever it may be, within the jurisdiction of the Union. The Constitution declares that "private property shall not be taken for public use without just compensation." Congress certainly has no power under this clause to purchase or forfeit slaves for the public use of either holding or emancipating them. The "public use" contemplated by the Constitution, is for carrying on the business of government in its legitimate sphere of action. This certainly does not extend so far as to enable the government to become a great slave holder or emancipator. She must hold before she can emancipate; and if the power to purchase and hold slaves exists at all, it is without limit—she can hold at discretion. The greatest pro-slavery propagandist in the South does not claim for the government of the United States such a power.

The treaty making power of this government may acquire territory. It is contended that the power to acquire, necessarily carries with it the power to preserve; that the power to preserve being unrestricted, the treaty may prohibit slavery, and the government must execute the treaty; or if the treaty makes no provision, the Congress may decide what laws are best calculated to preserve; that she may prohibit slavery as being "necessary and proper" to preserve the territory or to carry out the treaty.

This position is clearly untenable. In the first place, it confounds the different departments and powers of the government. The President and Senate constitute the treaty making power. They may acquire territory by treaty, but when acquired, they can not legislate over it. Their power ends when the acquisition is made, and there the power of Congress begins. When acquired, the territory must be governed by the stipulations of the treaty, so far as it does not conflict with the Constitution of the United States. To the extent of such conflict, the treaty is void; because the treaty making power itself is conferred and limited by the Constitution; it must be governed by the express provisions of that Constitution which creates it, and which recognizes slaves as property co-extensively with the Union, unless prohibited by the States, and guarantees that no person shall be deprived of life, liberty or property, without due process of law."

The Constitution can not mean that either the holding or carrying Africans, already slaves, is the *depriving* of a person of liberty, because the slave is recognized as property by previous law and fact, and is placed upon an equal footing of security with life and liberty. If the Constitution mean that a slave has been deprived of the liberty to which it refers, then the slave could claim his freedom by due process of law under the Constitution itself; there would be no necessity for an act of Congress respecting either the Territories or the States. But it has always been known and acted upon, that the liberty referred to by the Constitution is not the liberty of the slave it recognizes as property. The decision of the Supreme Court, therefore, correctly announces the fact and principle, that the word citizen, or people, in the Constitution, does not include the African race. They were not referred to or included by the Declaration of Independence, the Articles of Confederation, or the Constitution of the United States, as having and political rights whatever.

However unjust this may appear, it is sustained by a precedent of the highest authority. The Almighty declared to the children of Israel, "Ye shall hallow the fiftieth year, and proclaim liberty throughout the land unto all the inhabitants thereof;" yet this referred to the children of Israel only, and did not include the bondmen or slaves owned by them; for in

the same connection immediately afterwards, He declared, "For they are my servants which I brought forth out of the land of Egypt, they shall not be bondmen. Both thy bondmen and thy bondmaids which thou shalt have, shall be of the heathen round about thee; of them shall ye buy, and of their families which they begat in your land, and they shall be your possession and ye shall take them as an inheritance for your children forever; but over your brother, the children of Israel, ye shall not rule one over another with rigor." Thus the great Jehovah himself excluded the slave from all political existence. Although He commanded liberty to be proclaimed throughout the land to every inhabitant, the bondmen or slaves were not recognizsd as inhabitants. Under the same divine law, they were held as slaves forever.

The Constitution provides for the acquisition of territory, and confers certain powers upon Congress for admitting new States into the Union, not allowing any inequality concerning either the territories or the States. When it was adopted, slavery existed in all the States and territories but in one of each; can it then be *supposed* that the people intended to provide for having themselves or their children prohibited from carrying their slaves or other property into their own territories? If they desired or intended such a result, would they not have made a direct *express* constitutional

provision to that effect? If they did not intend to prohibit slavery by a direct Constitutional provision from those then *belonging* to the Union, but intended to prohibit it in territories afterwards acquired, or intended to confer that power in either case upon Congress, would they not have made a plain *express* constitutional provision directly in point, and thus have saved the country from the dangers resulting from such an interpretation of their intentions?

Before the Constitution was adopted, Virginia had expressly prohibited slavery in the territory ceded by her to the United States, and the cession had been accepted. It was not therefore such a new and unimportant question as to justify us in the conclusion that the power was intended to be conferred upon Congress in the secondary or implied powers. The question of slavery has always been one of the first magnitude in American politics.

Virginia had the right to prohibit slavery in the north-west, because she was the sole owner and sovereign over the soil and sovereign over her people. It is contended that the government of the United States, for the same reasons, by virtue of the same powers, has the same rights over her territories. The cases are not at all analogous. The territories of the United States are held as the property and for the benefit of the people of all the states, and must be governed by Congress, not according to the idea of original absolute

sovereignty over the citizens of the same, and over their property, such as exists in a State; but according to the express provisions of the Constitution which recognize slaves as property co-extensively with the Union, except where prohibited by a State, and command the government to protect all property. Congress has full power to protect all persons in all such rights, liberties and properties which existed when the Constitution was adopted, which have not been restricted by the Constitution, which still exist in any of the states or territories; and all such property may be carried into the territories for the use of its citizens; because those rights existed when the Constitution was adopted, and the Constitution recognized and guaranteed them to the people. And it is the duty of Congress to protect all such rights, liberties and properties. To the extent that she has power at all she has full power, and here duty is added to power. The people are the source of all political power. Such rights as they have never surrendered to the government of the United States nor to the several States, they have retained as individuals. They have never surrendered their right to carry their slaves, or any other kind of property existing when the Constitution was adopted, into the territories of the Union. While the people of the several States have reserved the original power to prohibit the importation or existence

of slaves within their limits, no such power has been delegated to Congress. The Court of Appeals in Kentucky, in affirming such a power to a State, declared that, "We regard it a fundamental principle, which, so far as we know, is denied by no citizen, that each State possesses the unquestionable right of determining for itself, whether, and to what extent, the right of property in the African race shall be recognized within its limits." In the case of *Grove and Slaughter*, (15 Peters,) the Supreme Court of the United States decided that "the power over this subject, (the subject of carrying slaves from one State to another,) is *exclusively with the several States*, and each of them has a right to decide for itself whether it will or not allow persons of this description to be brought within its limits from another State either for sale or use." Yet it is contended by the opposition that, under the clause of the Constitution which gives Congress power "to *regulate commerce among the States*," that Congress can prohibit slaves from being carried from one State to another where slavery exists.

If, as decided by the above Courts, the power to *prohibit* belongs *exclusively* to the States, it can not belong to Congress; the territories, therefore, as they become States by the formation of their Constitution, must, as previously shown, have an equal right with the other States of prohibiting slavery.

The Constitution leaves slaves in the District of Columbia just where it found them, on the same footing of security as any other property. The people of the district reserved the same right to them, and the Constitution secures it. Although Congress has exclusive legislative power over the district, she has not absolute power. She can not take private property for public use without just compensation. Under an express grant in the Constitution, Congress has exercised the power of prohibiting the importation of slaves into the district for sale. This power has been wisely conferred by the Constitution to prevent the capital of the Union from being annoyed by slave depots and markets. While the rights of the citizens to hold their slaves is fully protected by the Constitution, yet it was eminently proper and just to give Congress the power to protect the capital and metropolitan district of the Union from such annoyances. But the grant of power to Congress over the district is as different from that over the territories as the nature of the places and the objects of the grant need make them. The one gives Congress power "to exercise exclusive legislation in all cases whatever," and is limited only by the express provisions of the Constitution. The other only gives Congress "the power to dispose of and make all needful rules and regulations respecting the *territories or other property belonging to the United States*,"

the latter being, as shown, restricted as well by the nature and language of the grant as by the other provisions in the Constitution.

We have thus arrived at the conclusion that the Congress or government of the United States has no power whatever to prohibit slavery in the States or territories of the Union. But it is consoling to know this conclusion does not propose to extend the area, rivet the chains or prolong the existence of slavery. It simply leaves the subject with the wisdom, experience, humanity, and all the influences of an enlightened Christian age upon, and of the people of the several States.

If the patriots of America will maintain these Constitutional principles, and will carry out the decision of their supreme tribunal they will thus remove the greatest enemy to the peace and harmony of the people of the States, and thus most surely preserve their union. They will thus preserve the purest, the wisest, and the greatest government of men, and thus most surely promote the happiness of their own and of the African race. If, on the contrary, that decision shall be reversed, and conflict and dissolution should follow, it would most probably result in the formation of a great Southern empire, including Mexico and Central America with all South America, for future extension. Thus slavery would be established over a vast area, and in all probability for all time to come.

Those who take the opposite side of these conclusions fortify themselves with the precedents of the legislative branch of the government, the ordinance of '87, the Missouri compromise, and the Oregon bill, which prohibited slavery in their respective territories. Unfortunately for the country, more importance has been attached to these precedents than they deserve. They are well calculated at first to mislead, embracing, as they do, a period of over sixty years of a most important portion of the history of our country, and having been enacted nearly thirty years distant from each other. There is a patriotic loyalty among our people—a veneration for important things done by our fathers in government, that is at first shocked by the sudden undoing of what they did. While this sentiment is right within itself—is one of the great elements of the safety and strength of our republic, yet it must be directed by clear truth, the supreme law of the land, the Constitution of the republic itself. This is also sound national policy.

In the first instance, the ordinance of '87, according to the understanding of the writer, proves the absence, the reverse of the power it is called to sustain.

Virginia, the sole and absolute owner of the northwest territory, conveyed it to the States while they were united by the articles of confederation. In 1787, the then Congress organ-

ized a government for that territory, in which they prohibited slavery. Mr. Madison, in writing nearly cotemporary on the government under the articles of confederation, said in reference to this ordinance of '87: "Congress have proceeded to form new States; to erect temporary governments; to appoint officers for them; and to prescribe the condition on which new States shall be admitted into the confederacy; all this has been done, and done without the least color of Constitutional authority; yet no blame has been whispered, no alarm sounded; a great and independent fund of revenue is passing into the hands of a single body of men, who can raise troops to an indefinite number, and appropriate money for their support for an indefinite period of time; and yet there are men who have not only been silent spectators of this prospect, but who are advocates of the system which it exhibits."

When this ordinance passed the Old Congress, the Convention was framing the Constitution of the United States. It has been urged "that it is apparent in the frame of the Constitution that the convention recognized its validity and adjusted parts of their work with reference to it." This can not be admitted as a fact, because the Constitution contains no *express* reference to it, and none can be implied, because there is no provision in the Constitution which would not be proper and applicable to the condition of

things in the absence of or without any such ordinance. But if the Constitution had expressly recognized the validity of the ordinance, that would have given it no additional force then, because the Constitution was not then finally adopted. Such sanction must have related to the final adoption of the Constitution, not to be retrospective upon a void act of Congress under a different form of government. The nullity of this ordinance was virtually admitted by the Congress that passed it, for she submitted it to Virginia for her adoption. It was adopted by Virginia, and incorporated into her original act of cession before the final adoption of the Constitution. Virginia also adopted the Constitution, and thereby ratified every clause contained in it.

After the adoption of the Constitution, Congress re-enacted the ordinance. If the statesmen who re-enacted it thought it had been sanctioned by the Constitution, why did they not declare the fact, or at least recite it in the re-enactment? The re-enactment of it as a whole only gave validity to such parts of it as Congress had a right to enact. And it was re-enacted as a whole for the very purpose of giving Congressional validity under the Constitution to whatever, if any, legal sanction or authority Congress might have power to give to any of its parts. The re-enactment by Congress could give the anti-slavery clause no force beyond the Constitution,

or Constitutional powers. Whether, therefore, the Constitution recognized it or not, its validity, legal and Constitutional, was derived solely and exclusively from the State of Virginia, through her adoption of it by her legislature and her adoption of the Constitution.

The first Congressional act under our present Constitution, prohibiting slavery in any of the Territories, known as the Missouri Compromise, passed in 1820, and applied to the Territory north of 36-30. The generation in the North who had a personal knowledge of the history and condition of African slavery, had then almost entirely passed away. The northern peculiarities of soil, climate and commerce, had made slaves unprofitable there. They had been sold and sent farther south, and prohibited by those States. The new generation there had very little knowledge of slavery. The northern people, like those of the South, were devoted to the cause of freedom. For centuries they had been subject to great periodical excitements in liberty's cause. Having struggled through dangers and sufferings in Europe in pursuit of the precious boon; having helped to win it in America; this hereditary devotion to her cause became the great, and sometimes misguided passion of New England society. It had then been forty years since the great revolutionary, and twenty years since the alien and sedition struggle; it is therefore, easy to understand how, in the midst of this first

great strife, on the subject, the wisest and firmest statesmen became alarmed! How they sanctioned or acquiesced in a measure which seemed necessary to avert and survive the storm! To accomplish this object — to avert the horrors of a conflict of sister States, until reason and patriotism should resume their sway, wise and patriotic statesmen sanctioned or acquiesced in the measure! Again, when southern patriots had built up a new republic in the South, and national patriots had incorporated her into the great Union of States; when the cruel despotism from which she had thus been wrung, had first waged a war of extermination against her citizens, and then a war against the United States to re-subject her great lost State; when our gallant armies had driven back the dark tide of invasion, and pursued them into the heart of their own country; when the honor of our country and her thousands of suffering soldiers in Mexico were in the hands and at the mercy of Congress, again the cry was raised against the acquisition of those inestimable territories, unless southern institutions should be prohibited there. But when the dangers of war had passed, the wisest patriots of the times, casting aside every thought and motive but their country's good, standing in the light and aided by the experience of the past, refused to claim a power sanctioned under necessity only; refused to become a foreign oppressor or to exclude their brothers from their blood

bought lands; but generously and nobly reproduced and proclaimed the great principle of '76! The principle that produced the revolt, the union and the independence of the States! The eternal principle of truth and justice among equals of the same color and race! The principle that when the son of the free is clothed with the dignity of manhood, he becomes himself a freeman;—the principle of an equality of freemen and of States! The principle, that when the people of a Territory or State, form their State Constitution, they are the rightful sovereign of all the vital, domestic concerns of life, liberty and property.

CHAPTER VIII.

The portion of the preceding chapter that treats of slavery, and the decision of the Supreme Court, was written by the author, and published in November, 1857. From the time the decision was given, it had been opposed by some of the ablest lawyers in Kentucky, and the Union. The agitation of the question was increased at the same time, by the excitement and difficulties in Kansas. The Lecompton Constitution had been formed for admission into the Union. It contained two clauses on the subject of slavery—one for, and the other against it. These provisions only were submitted to the voters of Kansas, for them to decide which they would accept. The other portions of the Constitution were not submitted.

While the steps that had been taken in pursuance of which it had been formed, had all the forms of law, and had been so recognized by the government at Washington, yet it was obvious to all those acquainted with the facts, that a large majority of the voters of Kansas, were opposed to the adoption of that Constitution, and to admission into the Union under its government.

They declared it had been formed by fraud, and force in fact, and never having been sub-

mitted for the acceptance or rejection of the people it proposed to govern, they would never submit to its government.

In view of these facts—in view of the approaching session of Congress, and the gathering storm of sectional strife, the humble author wrote the following preamble and resolutions, as a basis for the adjustment of those, and other analogous questions. In order to understand the proposed plan of adjustment, it must be remembered, that the Lecompton Constitution, contained two clauses relative to its amendment; one declaring that the people have at all times the right to amend, reform or abolish their Constitution; the other declaring affirmatively, that they might amend it after 1864, but not prohibiting its being done before that time. From these provisions, one party took the position, that if the Lecompton Constitution, should be admitted into the Union, it could not be changed before 1865; the other party, being a large majority in Kansas, declared that if admitted, they would resist and disregard it. These were the questions which threatened revolution and civil war, when the following was proposed by the author.

[From the Kentucky Statesman.]

DEMOCRATIC MEETING IN FAYETTE.

At a called meeting of the democracy of Fayette County, held at the Court House, in

Lexington, on Monday, December 14th, for the purpose of appointing delegates to the State Convention at Frankfort, on the 8th of January next, Col. C. C. Rogers was called to the chair, and Frank Waters appointed Secretary.

Col. W. B. Victor then offered the following resolutions :

ADMISSION OF KANSAS.

WHEREAS the difficulties in the Territory of Kansas have, to a lamentable extent been destructive of life, liberty and property ; have come near involving the people of the United States in civil war, and still threaten those disastrous results, it is the duty of every American patriot to exert himself to bring about a speedy, just and peaceful termination of those difficulties : That it is but too evident from the past, that the only safe and honorable adjustment of those difficulties is and must be her admission into the Union as a State, upon just and rightful principles : And

WHEREAS, great and dangerous dissatisfaction exists among the people, with the submission by the Convention of a portion only of the Constitution to the people of the Territory, which threatens civil war, we are of opinion that it may be laid down as a principle which will safely and correctly regulate our system of Government in this regard : That when a Constitution is formed which proposes to change

a Territorial into a State government when admitted into the Union, such Constitution, in order to be republican, must be ratified by a majority of the citizens it proposes to govern, or it must not contain any material obstruction to their amendment of it, so as to enable them to make it their Constitution. If such Constitution does not contain one or the other of these vital elements of republicanism, it ought to be rejected by the Congress of the United States when presented for admission into the Union.

Believing that the Constitution of Kansas, recently formed and submitted, contains no material obstruction to its ratification, amendment or change immediately after admission into the Union, we are of opinion that Congress ought to admit her into the Union with said Constitution, and with such declaratory act, and such preliminary provisions and conditions as will guarantee to the people of said State, the ratification, change or amendment of their Constitution accordingly as they may decide: And further,

Resolved, That we will not allow ourselves to believe that the Representatives of those patriotic hosts who elevated our administration to power, will materially differ from that administration in the application of those principles and the consummation of those measures which were the life, soul and body of the great achievement deferred to.

Resolved, That while we have undiminished confidence in both, the crisis calls for prudence and the exercise of the wisest statesmanship in the consummation of the delicate, difficult and dangerous affairs of Kansas.

On motion of Maj. T. H. Waters, a committee was appointed to draft suitable resolutions, to whom Col. Victor's resolutions upon the Kansas question be referred.

The committee reported the following resolutions, which were unanimously adopted:

Resolved, That the resolutions of Col. Victor, relative to Kansas, be laid over, in order that a more deliberate and advised action be taken, and a full and careful discussion had on Saturday night next at 7 o'clock."

These resolutions and preamble were written 1st December, were printed, and copies of them sent to a member of Congress, before the President's Message had appeared, and before the parties had defined their positions on the subject in Congress.

This, so far as the author was then, or is yet advised, was the first plan proposing such an adjustment of the question. Several weeks afterwards, the Leecompton Constitution was presented to Congress for admission.

One of the great political parties in Congress advocated absolute and unqualified admission; the other took position for absolute rejection. The bitterness of the contest both in and out of

Congress, and the dangers with which it threatened the Union, are too well remembered to require more than a reference to the facts.

It will be remembered that the foregoing resolutions suggest two modes of adjustment. 1st, Admission subject to ratification. 2d, Admission with a declaration that the people of Kansas had the right, under the Constitution of Kansas, to change or amend it, without waiting until 1865, as the time of beginning the change.

Several months afterwards the amendment of Senator Green was adopted by the Senate, just before the final vote on the passage of the bill. It is as follows: "And nothing in this act shall be construed to abridge or infringe any right of the people, asserted in the Constitution of Kansas, at all times to alter, reform or abolish their form of government in such manner as they may think proper—Congress hereby disclaiming any authority to intervene or declare the construction of the Constitution of a State, *except to see that it be republican in form, and not in conflict with the Constitution of the United States.*"

After the Senate bill failed in the House, Mr. Crittenden's bill that passed the House but failed in the Senate, contained the following clause:

"This admission of her [Kansas] into the Union as a State is here declared to be upon this fundamental condition precedent, namely: That the said constitutional instrument shall be first submitted to a vote of the people of

Kansas, and assented to by them, or a majority of the voters, at an election to be held for that purpose; and as soon as such assent shall be given, and duly made known to the President of the United States, he shall announce the same by proclamation, and thereafter, and without any further proceedings on the part of Congress the admission of the said State of Kansas into the Union on an equal footing with the original States, in all respects whatever, shall be complete and absolute."

After the failure of this bill in the Senate, the English Conference bill passed both houses, and became a law. It contains the following clauses:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That the State of Kansas be and is hereby admitted into the Union on an equal footing with the original States in all respects whatever, but upon this fundamental condition precedent, namely: That the question of admission, with the following proposition, in lieu of the ordinance framed at Lecompton, be submitted to a vote of the people of Kansas and assented to by them, or a majority of them voting at an election to be held for that purpose, namely: "

Here follows the proposition to grant a large quantity of land to Kansas, if the voters of the territory accept the same with said Constitution;

or rather, if as above provided, they accept "the Constitution with the following proposition;" the language being, "the question of admission with the following proposition, in lieu of the ordinance passed at Lecompton, be submitted to a vote of the people of Kansas."

This the writer understood to be substantially a submission of the question to the people of Kansas!

The result demonstrates the correctness of this position. Kansas did not become a State with the Lecompton Constitution. The voters of the territory, by a majority of over five to one, refused to accept that Constitution, although Congress offered them five millions of land to accept it.

These facts are not stated for the purpose of claiming honors justly belonging to others, nor of claiming honors for himself. But the writer believes it is allowable for him to state the facts, thus leaving the subject with others. That these principles have been vindicated in times of danger to the country, is now a matter of history; that the people of Kansas did not accept the Lecompton Constitution, however it may be regretted by some, ought to be remembered as the exercise of their sovereign right to reject it; that peace and harmony has thus, in a great measure, been restored to the country, should be a matter of sincere rejoicing; that the rights and principles thus defined, and the experience of the past,

will be a safe guide for the adjustment of similar questions, should they arise in the future, should be the hope and effort of every lover of his country; that the Union shall be preserved, and that she will move onward in her high career, of goodness, of greatness, and of glory, should be the ardent desire and faithful effort of every citizen.

If any party shall again endanger the Union, surely there are patriots enough to preserve it. There is yet a great party of true and faithful patriots in the country. The dissolution parties, whether in the North or South; whether they propose to accomplish their object directly or indirectly; whether dissolution be the object or not, if they propose measures that would produce that result, can be defeated by the party that has defeated every former effort to blight the prosperity and liberties of the people, or dissolve the Union of the States.

When this great party shall see and feel, that the laws of equal justice and the principles of republican liberty, the equal rights of citizens and of States—when the patriots of America, by whatever names they may have been called, shall see and feel, that the ever brightening truths and victories of the past are in danger; that the civilization and happiness of great communities are in danger of being broken up, perhaps destroyed, they will rise in every region of the Union and march to the rescue.

Love of Country has always been one of the deepest and strongest passions of the human breast. The preservation of a country's liberties and the promotion of her happiness, have always been among the highest conceptions and noblest objects of the human mind. These inherent attributes of human nature, spring from the love of kindred, of self, and of friends; from a common cause of preservation, of prosperity and of happiness; of sorrows and calamities; from all the interests, ties, and sympathies of a common destiny. These causes, attributes, and objects, have always been found in every people, from the arctic regions of the poles, to the burning sands of the equatorial sun; from the lowest savages to the most refined and religious nations. The great lesson, the great duty of man is to learn from the great past how to progress through the still greater future: how to preserve all that is good and discard all that is bad; how to promote the happiness of this life and seek for safety and happiness in the life to come!

These are the great objects of government; she has no vindictive feelings to gratify. Government is simply the laws and means by which society endeavors to secure her right to the pursuit of happiness. In order to accomplish this object it must be founded upon and conducted according to the great laws of nature, and the revealed will of the great Ruler of all. There is a similarity of the present with original society. In the cre-

ation of the world we discover the great foundation for life. In the creation of man and the commencement of his career, we see the great objects, the philosophy and the prototype of law, of government and of destiny.

The Almighty breathed into Adam the breath of life, and he became a living soul! Life was common to all animal existence, but the soul was a gift only to man; it came fresh from the great Creator of all, and will live as long as the God who gave it birth, and thus gave it these attributes of His own exalted and immortal spirit! With the lives of Adam and Eve commenced the operation of those great laws that have since governed the world, and directed the destiny of man. In the creation of the world, with all her wealth, her luxuries, her beauties, and sublimities; in the creation of man, and in the gift of all to man, we can see nothing but the wisdom, power, and goodness of God. The restraint placed upon man, and the penalty of disobedience announced at the time, were necessary for the maintenance of the authority of the Creator and Ruler of all. His infinite wisdom and goodness decreed it to be necessary to maintain His supreme authority and His exalted dignity! Man was made perfect, because he was thus created, thus endowed, and thus made free to fall. He has no right to complain of his beneficent Creator. He is under the greatest obligations, and has the highest inducements to endeavor to

obtain pardon for his great offence and to regain his lost estate. These great objects can only be accomplished by obedience to the great laws of his government, civil and divine. Of this great truth history contains the fullest proof, and the history of our own country the brightest example.

The North American colonies were founded on the divine revelation to man. The Jamestown colony was sent to Virginia under the reign of the King who translated the Bible. It laid its foundations on that Bible and worshipped at the foot of the Cross. The second colony came from the reformation land. The third came to worship God in freedom. The colonies grew and flourished under the greatest trials until they declared themselves independent States. They then appealed to the Almighty to vindicate their motives and sustain their cause. When they had become independent States; when they formed a more perfect union for their government, they laid its foundations on the equal justice of the Holy Scriptures and the perfect freedom of conscience and of worship. Thus every great movement and event in the rise and progress of the States, has been made in obedience to the divine laws with fervent prayers for Divine assistance, and has been crowned with that success which divine Providence alone could give. These great facts and lessons of history should never be forgotten. The continued welfare and progress of the people

and the States will depend upon obedience to the great laws of the Bible. If any of the civil laws be wrong or defective let them be repealed or improved in a lawful manner. This is not only the great principle and vital law of civil government, but it is the command of the Almighty himself. The co-operation of laws civil and divine is absolutely necessary to the prosperity and happiness of peoples and of States. Their existence in the books only can not produce good results. They are designed and decreed to be carried into practice; to enter into and control individuals and communities. Thus and only thus can society be preserved and improved through all future time.

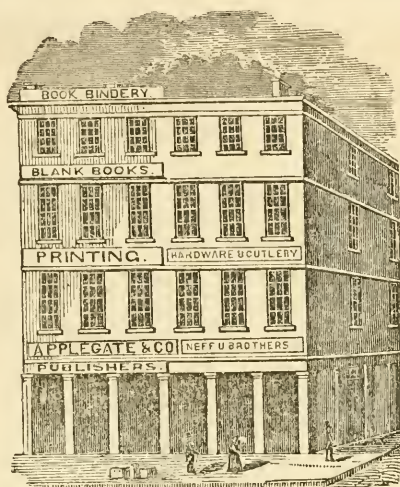
All questions of government are subjects in which the people have a like or equal interest; questions that should be considered and acted upon in the same fraternal spirit as any other great question affecting the safety, progress and happiness of the people. All differences of opinion and party strifes should be controlled by truth, reason and justice, or results might follow that could never be recalled. A people possessed of the best quarter of the globe and the best government on earth, ought not and will not permit such blessings to be ruined or lost forever. A people whose rise and every great struggle have received the divine assistance, ought not and will not limit their efforts by the mere pursuits of time or the highest phys-

ical attainments. They will also pursue the higher and holier objects of life. They can thus and only thus make society what it seems designed to be, an index to the life to come; each happy in the performance of his duties and in the joys given by the Holy Spirit of heaven!

There are occasions and glances of life that point to a far brighter and a happier future; they linger in the memory like visions of sainted friends and the sound of melancholly joys; they seem to reveal holiness divine and the bright images of the happy spirits of heaven.

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